

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN W. KARCZ, JR and
JENNIFER A. KARCZ

Plaintiffs,

vs.

THE CITY OF NORTH TONAWANDA,
c/o Mayor Arthur G. Pappas; THE
COUNTY OF NIAGARA c/o County
Clerk Joseph A. Jastrzemski; WILLIAM R.
LEWIS; SHAWN P. NICKERSON;
WILLIAM R. HALL; THOMAS E.
KRANTZ; ROBERT LABUSHESKY;
KAREN SMITH; TODD BUSH;
ROBERT KOLATA; JAMES
MUEHLBAUER; LAWRENCE
KUEBLER; SCOTT WILLARD;
STEPHEN ENDRES; TERRY HUEY;
LEE BOLSOVER; ROBERT
BOHNSTADT; SHAWN LARSON;
DANIEL MAHONEY; JEFF SHIESLEY;
DARYL E. TRUTY; RICHARD
WYDYSH; AND "NORTH
TONAWANDA POLICE OFFICERS
JOHN DOE I, II, III, IV, V, AND IV and
JANE DOE" of the North Tonawanda
Police Department (NTPD); JAMES R.
VOUTOUR; SCOTT LOMBARDO;
RONALD P. DWORZANSKI; AND
NIAGARA COUNTY DRUG TASK
FORCE OFFICERS JOHN DOE I, II, III,
AND IV (NCDTF) OF THE Niagara
County Sheriff's Department (NCSD);
NIAGARA COUNTY DISTRICT
ATTORNEYS MICHAEL VIOLANTE;
LAURA T. BITTNER; and KEVIN D.
CANALI,

Case No.: CV-**16 CV 628** ✓

VERIFIED COMPLAINT

DEMAND FOR JURY TRIAL

PRELIMINARY STATEMENT

1. This is a civil rights action in which the Plaintiffs, JOHN W. KARCZ, JR and JENNIFER A. KARCZ seek relief for the Defendants' violations of their rights secured by the Civil Rights Act of 1871, 42 U.S.C. § § 1983, by the United States Constitution, including its First, Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments, and by the laws and the Constitution of New York State. Plaintiffs seek compensatory and punitive damages, injunctive relief, an award of costs, interest and attorney's fees, and such other further relief as this Court deems just and proper.

JURISDICTION AND VENUE

2. This court has jurisdiction under 28 U.S.C. § 1331 and 1343, over and the First, Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments of the U.S. Constitution pursuant to 42 U.S.C. § § 1983 and 1988. The Plaintiffs are seeking redress for violations of their common law, civil and constitutional rights. Venue is proper pursuant to 28 U.S.C. §§ 1391 (b) and (c) because the Defendants are officials of and employees of, or are THE CITY OF NORTH TONAWANDA, or THE COUNTY OF NIAGARA, which are administratively located within the boundaries of the Western District of New York and that the events giving rise to this claim occurred within the boundaries of the Western District of New York. Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all state law claims and as against all parties that are so related to claims in this action within the original jurisdiction of this court so they may form part of the same case or controversy.

PARTIES

3. Plaintiffs are residents of New York State, County of Niagara, with residences at 357 Daniel Drive, North Tonawanda, New York 14120, and 1762 Cudaback Avenue, Niagara Falls, New York, 14303. Return mail address for Plaintiffs is: P.O. Box 1553 M.P.O., Niagara Falls, New York, 14301. Plaintiffs were at all relevant times in this actions residents of Niagara County, New York.

4. Defendants are residents of New York State, County of Niagara, and employed at 216 Payne Ave, North Tonawanda, NY 14120, for North Tonawanda; and 175 Hawley Street, Lockport, New York, 14094, for Niagara County; and 5526 Niagara Street Ext, Lockport, NY 14094, for Niagara County Sheriff's Department; and, upon information and belief, are using these locations as their mailing addresses.

5. A. Defendant CITY OF NORTH TONAWANDA is and was at all times relevant herein a municipal entity created and authorized under the laws of the great State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Defendant CITY OF NORTH TONAWANDA assumes the risks incidental to maintaining a police force and the employment of police officers.

B. CITY OF NORTH TONAWANDA was at all times herein the public employer of Defendants WILLIAM R. LEWIS; SHAWN P. NICKERSON; WILLIAM R. HALL; THOMAS E. KRANTZ; ROBERT LABUSHESKY; KAREN SMITH; TODD BUSH; ROBERT KOLATA; JAMES MUEHLBAUER; LAWRENCE KUEBLER; SCOTT WILLARD; STEPHEN ENDRES; TERRY HUEY; LEE BOLSOVER;

1 ROBERT BOHNSTADT; SHAWN LARSON; DANIEL MAHONEY; JEFF
2 SHIESLEY; DARYL E. TRUTY; RICHARD WYDYSH; AND "NORTH
3 TONAWANDA POLICE OFFICERS JOHN DOE I, II, III, IV, V, and JANE DOE.
4 C. Defendants WILLIAM R. HALL; THOMAS E. KRANTZ; ROBERT
5 LABUSHESKY; KAREN SMITH; TODD BUSH; ROBERT KOLATA; JAMES
6 MUEHLBAUER; LAWRENCE KUEBLER; SCOTT WILLARD; STEPHEN
7 ENDRES; TERRY HUEY; LEE BOLSOVER; ROBERT BOHNSTADT; SHAWN
8 LARSON; DANIEL MAHONEY; JEFF SHIESLEY; DARYL E. TRUTY;
9 RICHARD WYDYSH; AND NORTH TONAWANDA POLICE OFFICERS JOHN
10 DOE I, II, III, IV, V, and JANE DOE are and were at all times relevant herein duly
11 appointed and acting as officers, servants, employees, and agents of the North
12 Tonawanda Police Department, a municipal agency of Defendant CITY OF NORTH
13 TONAWANDA. At all times relevant herein the individual Defendants were acting
14 under color of the laws, statutes, ordinances, regulations, policies, customs and/or
15 usages of the State of New York and the North Tonawanda Police Department, in the
16 course and scope of their duties and functions as officers, agents, servants, and
17 employees of Defendant CITY OF NORTH TONAWANDA, were acting for and on
18 behalf of, and with the power and authority vested in them by the CITY OF NORTH
19 TONAWANDA and the North Tonawanda Police Department, and were otherwise
20 performing and engaging in conduct incidental to the performance of their lawful
21 functions in the course of their duties. They are sued individually and in their official
22 capacity.

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26 D. Defendants WILLIAM R. LEWIS and SHAWN P. NICKERSON are and were at
27 all times relevant herein duly appointed and acting as officials, servants, employees,

1 and agents of Defendant CITY OF NORTH TONAWANDA. At all times relevant
2 herein the individual Defendants were acting under color of the laws, statutes,
3 ordinances, regulations, policies, customs and/or usages of the State of New York, in
4 the course and scope of their duties and functions as officers, agents, servants, and
5 employees of Defendant CITY OF NORTH TONAWANDA, were acting for and on
6 behalf of, and with the power and authority vested in them by the CITY OF NORTH
7 TONAWANDA, and were otherwise performing and engaging in conduct incidental
8 to the performance of their lawful functions in the course of their duties. They are sued
9 individually and in their official capacity.
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11 E. Defendant COUNTY OF NIAGARA is and was at all times relevant herein a
12 county created and authorized under the laws of the great State of New York. It is
13 authorized by law to maintain a sheriff's department which acts as its agent in the area
14 of law enforcement and for which it is ultimately responsible. Defendant COUNTY
15 OF NIAGARA assumes the risks incidental to maintaining a sheriff's force and the
16 employment of sheriff's deputies.
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18 F. Defendant COUNTY OF NIAGARA was at all times herein the public employer of
19 Defendants MICHAEL VIOLANTE; LAURA T. BITTNER; KEVIN D. CANALI;
20 JAMES R. VOUTOUR; SCOTT LOMBARDO; RONALD P. DWORZANSKI;
21 NIAGARA COUNTY DRUG TASK FORCE OFFICERS JOHN DOE I, II, III, AND
22 IV.
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24 G. Defendants MICHAEL VIOLANTE; LAURA T. BITTNER; KEVIN D. CANALI;
25 JAMES R. VOUTOUR; SCOTT LOMBARDO; RONALD P. DWORZANSKI;
26 NIAGARA COUNTY DRUG TASK FORCE OFFICERS JOHN DOE I, II, III, AND
27 IV, upon information and belief, are and were at all times relevant herein duly
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1 appointed and acting as officers or officials, servants, employees, and agents of
2 Defendant COUNTY OF NIAGARA. At all times relevant herein the individual
3 Defendants were acting under color of the laws, statutes, ordinances, regulations,
4 policies, customs and/or usages of the State of New York, in the course and scope of
5 their duties and functions as officers, agents, servants, and employees of Defendant
6 COUNTY OF NIAGARA, were acting for and on behalf of, and with the power and
7 authority vested in them by the COUNTY OF NIAGARA, and were otherwise
8 performing and engaging in conduct incidental to the performance of their lawful
9 functions in the course of their duties. They are sued individually and in their official
10 capacity.
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12 STATEMENT OF FACTS

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15 6. This civil suit is in pursuit of fundamental justice to right the wrongs perpetrated
16 against the Plaintiffs as a continuing pattern of abuse and conspiracy by a group of law
17 enforcement officers joined and suborned by officials, a veritable “street gang in
18 blue,” in a vendetta of continuing violations led by North Tonawanda Chief of Police
19 William R. Hall, which began on May 24, 2013, and has continued in derivative and
20 unattenuated fashion to the current day. The Plaintiffs are seeking, in part, injunctive
21 relief to bring those who would trample their rights to justice, and in part, economic
22 sanctions to make the Plaintiffs and their family whole by compensating them with
23 money damages for the losses they suffered.
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26 7. In 2009, the Plaintiffs, John and Jennifer Karcz state that they purchased the “house of
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1 their dreams” on Daniel Drive in North Tonawanda, New York. The primary reason
2 for the purchase was to have privacy for themselves and safety for their first child,
3 who was born the same year. The Karcz’s believed the home was in a neighborhood
4 and a city where they could leave their doors unlocked without fear of intrusion. From
5 December 24, 2009 until May 24, 2013, this was very much the case.
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8 8. Beginning on May 24th, 2013, and continuing to the present day, the Defendants both
9 individually and severally have acted in concert, conspiracy, intentional abrogation,
10 and individual disregard for the Laws of the United States of America and with blatant
11 disregard for the constitutional rights afforded the Plaintiffs under the United States
12 Bill of Rights and the Constitution, which is in itself a cause of action.
13

14 9. The Defendants acted under Color of State Law to deprive the Plaintiffs of their rights
15 under the Constitution of the United States of America and the Federal law. The
16 Plaintiffs allege the Defendants did so with intent, guilty knowledge, malice
17 aforethought, and arbitrary and capricious indifference to the rights of the Plaintiffs
18 and to the Constitution of the United States of America, which is likewise a cause of
19 action.
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22 10. The Plaintiffs further allege, to wit, that the official Defendants have committed, aided
23 and abetted in the commission, attempted to commit, and/or conspired to commit acts
24 under Color of Law consisting of home invasion, deprivation of privacy, breaking and
25 entering with a deadly weapon, unlawful detention, false imprisonment, false arrest,
26 unlawful arrest, theft, trespassing, burglary, against the Plaintiffs on a variety of dates
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1 in violation, abrogation, and/or evisceration of the 1st, 4th, 5th, 6th, 8th, 9th and 14th
2 Amendments of the United States Constitution/42 U.S.C. § 1983 with official
3 knowledge and *Guilty knowledge and willfulness*. By the conduct, acts, and omissions
4 complained of herein, the police Defendants violated clearly established constitutional
5 standards under the 1st, 4th, 5th, 6th, 8th, 9th and 14th Amendments to the United States
6 Constitution of which any reasonable police officer under the circumstances would
7 have known. As stated to follow are the instances elaborating these acts and the causes
8 of action thereto.
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11 11. Additionally, the Plaintiffs allege the Niagara County District Attorney committed
12 malicious prosecution to lend cover to many of the same acts against the Karcz family.
13 The Judge of the City of North Tonawanda also advanced his assent thereto. Thereby
14 depriving and conspiring to deprive the Plaintiffs of their rights under Color of Law,
15 their civil rights, their constitutional rights, and substantial justice, life, liberty, and
16 property; as well as denying the rights to seclusion, substantial dignity, and freedom
17 from improper and undue publicity, and coerced self-incrimination.
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20 12. Beginning on May 24, 2013, members of the North Tonawanda Police Department,
21 Defendants herein, illegally entered the Plaintiffs' home to carry out acts of illegal
22 search and seizure without justification, provocation, or legal right to do so. These
23 instances were knowingly illegal to the officers involved, and taken against the
24 express wishes of the Plaintiffs as rightful owners, occupants, and or residents of the
25 home at 357 Daniel Drive, North Tonawanda, New York, 14120.
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1 13. On May 24, 2013, members of the North Tonawanda Police Department, specifically,
2 James Muehlbauer, Robert Kalota, and Karen Smith, asserted to the Plaintiff, Mrs.
3 Karcz, that they had a lawful right to enter the family's residence; after being denied
4 admission and asked to leave the Plaintiffs' property, and told repeatedly by both Mr.
5 and Mrs. Karcz, that they had no wish to speak with the police without an attorney
6 present.

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9 14. North Tonawanda Police Detective Robert Kalota picked up a brass hammer from a
10 nearby toolbox and brandished it threatening to smash Mr. Karcz's window, and also
11 asserting he had the lawful right to admit himself into the home via the sliding patio
12 door. Kalota undertook this action unlawfully and intentionally to deprive the
13 Plaintiffs of their rights.

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15 15. Detectives Kalota and Muehlbauer who then forced open the door to the home where
16 North Tonawanda Police Detectives Robert Kalota, James Muehlbauer, and
17 Lieutenant Karen Smith forcibly admitted themselves and proceeded to convene an
18 illegal search and seizure upon the home. At all times relevant to this complaint,
19 Detectives Robert Kalota, James Muehlbauer, and Lieutenant Karen Smith were
20 engaged in a joint venture, assisting each other in performing the actions described
21 herein and lending their physical presence and support and the authority of their
22 offices to one another.

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25 16. There was no exigency to legitimately allow the unlawful search and seizure, and the
26 Plaintiffs had a right to be free from this violation of their rights.
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1 17. No consent was given to legitimately allow the unlawful search and seizure, and the
2 Plaintiffs had a right to be free from this violation of their rights.

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4 18. During this first unlawful entry of the property, on May 24, 2013, North Tonawanda
5 Police examined and took photos of the home, papers, and effects, and did damage to
6 locked doors within the home. Damage amounted to \$500.00.

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9 19. Several hours later, upon information and belief, on May 24, 2013, Detective
10 Muehlbauer, Detective Kalota, and Lieutenant Smith and Chief William R. Hall
11 returned with Lieutenant Robert Labushesky, Lieutenant Todd Bush; and Officers
12 Stephen Endres, Terry Huey, Lee Bolsover, Robert Bohnstadt, Shawn Larson, and
13 Daryl E. Truty and demanded entry for the purpose of searching and seizing the home
14 at 357 Daniel Drive a second time in front of their children.

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17 20. Once again, no search warrant was produced, and no exigent circumstances existed to
18 justify the armed entry into the home of the Plaintiffs, and the Plaintiffs had a right to
19 be free from this violation of their rights.

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21 21. The Plaintiffs once again refused the heavily armed Police Officers admittance to the
22 family home, but the police gained entry into the property by force, and again
23 unlawfully searched and seized the home, papers, and effects of the Plaintiffs in front
24 of their children, and the Plaintiffs had a right to be free from this violation of their
25 rights.
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1 22. During this second search and seizure, on May 24, 2013, the North Tonawanda Police
2 unlawfully searched and took photographs inside the home, upon information and
3 belief, and seized articles of property from the home. Loss of property estimated at
4 \$1000.00. At all times relevant to this complaint, Detective Muehlbauer, Detective
5 Kalota, and Lieutenant Smith and Chief William R. Hall returned with Lieutenant
6 Robert Labushesky, Lieutenant Todd Bush; and Officers Stephen Endres, Terry Huey,
7 Lee Bolsover, Robert Bohnstadt, Shawn Larson, and Daryl E. Truty were engaged in a
8 joint venture, assisting each other in performing the actions described herein and
9 lending their physical presence and support and the authority of their offices to one
10 another.
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13 23. Some areas of the home, although searched, seized, and photographed, may have been
14 left to contain potential “contraband” which would have clearly forever been “fruit of
15 the poisonous tree” due to police misconduct.
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17 24. Any alleged “contraband” seized at this time was in full control of police officers and
18 officials during the search and seizure, and abandoned by its possessory officials for
19 reasons unknown.
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21 25. No charges were ever filed against the Plaintiffs, nor was any criminal wrong-doing
22 alleged of the Plaintiffs in this incident. By the conduct, acts, and omissions
23 complained of in paragraphs 13-24 herein, the Defendants violated clearly established
24 constitutional standards under the United States Constitution of which any reasonable
25 police officer under the circumstances would have known.
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1 26. Upon information and belief, on June 17, 2014, City of North Tonawanda Mayor
2 Robert G. Ortt gave the participants of this illegal “raid” an award for their actions;
3 officially condoning, and praising, and giving laudation to this pervasive abrogation of
4 the Plaintiffs’ rights. In addition to this egregiously permissive and unearned
5 commendation, a number of the parties involved have received promotions during the
6 past 38 months, often specifically after they have taken action against the Plaintiffs.
7 The Plaintiffs had a right to be free from this violation of their rights.
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10 27. On or around June 12, 2013, several police officers, upon information and belief,
11 thought to include Todd Bush, Stephen Endres, Lee Bolsover, Robert Bohnstadt, and
12 Daryl E. Truty came uninvited into the rear yard of the Karcz family home and falsely
13 stated they’d received a call about a disturbance in the area and requested to gain
14 admission to the house, and the Plaintiffs had a right to be free from this violation of
15 their rights.
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18 28. Upon information and belief, the Plaintiffs believe the officers were instructed, by
19 police officials, to attempt to retrieve the potential “contraband” they’d left behind on
20 May 24, 2013, without a warrant.
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22 29. Mrs. Karcz stated to the officers that they’d come to the wrong address, and asked the
23 police officers to leave immediately.
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25 30. On or around July 15, 2013, Mr. Karcz saw officer Shawn Larson on his private
26 property, within the curtilage of the home, without invitation or provocation, looking
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1 into the windows of the house, and the Plaintiffs had a right to be free from this
2 violation of their rights.

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4 31. When asked what he was doing Officer Larson replied that he was “asked” to make a
5 “wellness check” on the Karcz family’s 4-year old daughter, but when directed to
6 speak with Mr. Karcz’s wife at the neighbor’s home, he left immediately, and the
7 Plaintiffs had a right to be free from this violation of their rights.

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9 32. Between December 24, 2009 and June 2013, the North Tonawanda Police Department
10 had never previously made any type of “wellness checks” for the Plaintiffs or their
11 family; the only difference was the break-in by Muehlbauer, *et al.* Now the police
12 evinced a clear intention to at any time, violate the Plaintiffs’ “reasonable expectation
13 of privacy.” By the conduct, acts, and omissions complained of in paragraphs 27-31
14 herein, the Defendants violated clearly established constitutional standards under the
15 United States Constitution of which any reasonable police officer under the
16 circumstances would have known.
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19 33. On or around November 16, 2013, North Tonawanda Police Officers Jeff Shiesley and
20 Terry Huey came onto the adjacent building lot titled as 351 Daniel Drive, North
21 Tonawanda, property owned by Plaintiff Jennifer Karcz, and proceeded to place
22 tickets on Mr. Karcz’s boat, trailer, and vehicle which were parked legally, and the
23 Plaintiffs had a right to be free from this violation of their rights.
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26 34. Mr. Karcz contacted the police station traffic desk where he was informed the tickets
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1 were written at the direction of North Tonawanda Police Chief William R. Hall. By
2 the conduct, acts, and omissions complained of in paragraph 33, herein, the
3 Defendants violated clearly established constitutional standards under the United
4 States Constitution of which any reasonable police officer under the circumstances
5 would have known, and the Plaintiffs had a right to be free from this violation of their
6 rights.
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9 35. Mr. Karcz then spoke with Mr. Robert Sondel, the Assistant City Attorney for North
10 Tonawanda took the fallacious tickets and contacted the police department who then
11 cancelled the citations.
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13 36. Mr. Karcz was informed by Mr. Robert Sondel, the Assistant City Attorney for North
14 Tonawanda that according to *North Tonawanda City Code Chapter 96 – Vehicle and*
15 *Traffic, Article VII – Terrace Parking*, he and his wife were absolutely allowed to park
16 vehicles, boats, and trailers on the paved half-circle/terrace area in front of the
17 property she owned.
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19 37. Robert Sondel, the Assistant City Attorney for North Tonawanda, advised Mr. Karcz
20 to write official complaints of grievance to the Chief of Police regarding the
21 trespassing; Chief William R. Hall. Chief Hall disregarded the official grievances and
22 refused to speak with the Karcz family at this time, ignoring the official grievance
23 process.
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26 38. A North Tonawanda Police Lieutenant, upon information and belief, thought to be
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1 Daniel Mahoney, came to the Karcz residence several days later and told Mr. Karcz
2 that the vehicles were not legally parked, and that Assistant City Attorney Robert
3 Sondel was “just wrong,” and that the North Tonawanda Police would “just have to
4 get the law changed.” This was official harassment, and the Plaintiffs had a right to be
5 free from this violation of their rights.
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8 39. Prior to the Plaintiffs’ buying the property at 351 Daniel Drive, Robert Brennan, a
9 personal friend of North Tonawanda City Attorney Shawn P. Nickerson, parked his
10 personal vehicles and/or trailers in the same location for many years with impunity
11 from harassment, questioning, and certainly no tickets being produced, despite
12 Brennan not owning the property. This was not equal protection under the law, and the
13 Plaintiffs had a right to be free from this violation of their rights.
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15 40. In June, July, and August of 2014, North Tonawanda Police Officer Jeff Shiesley,
16 stopped several times in front of the Karcz home and engaged in threatening behavior
17 while both in a police vehicle, and while driving his personal automobile. This was
18 police harassment, and the Plaintiffs had a right to be free from this violation of their
19 rights.
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21 41. The behavior consisted of Officer Shiesley menacing and staring at both Mr. and Mrs.
22 Karcz for several minutes before driving away. The behavior was so alarming, that
23 Mr. Karcz bought and installed cctv cameras on the Plaintiffs’ home in September
24 2014 in fear of Shiesley. Plaintiffs had a right to be free from this violation of their
25 rights.
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1 42. On or about September 27, 2014, Officer Shiesley pulled over in his private vehicle
2 and, upon information and belief, appeared to be taking cell phone photographs of Mr.
3 Karcz installing cctv security system on his home.

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5 43. On May 18, 2015, Plaintiff, Jennifer Karcz, who was pregnant, was awakened by the
6 noise of doors slamming downstairs; Mrs. Karcz was shocked to hear a man scream;
7 "Freeze! Put your hands up! This is the police!" Effecting an unlawful seizure of a
8 person and a false arrest, and the Plaintiff had a right to be free from this violation of
9 their rights.

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11 44. The Plaintiff, Mrs. Karcz, who was sleeping nude, was embarrassed, mortified,
12 alarmed, frightened, and extremely violated, due to this false arrest, and the Plaintiff
13 had a right to be free from this violation of their rights.

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15 45. The Fourth Amendment protects an individual's privacy in a variety of settings. In
16 none is the zone of privacy more clearly defined than when bounded by the
17 unambiguous physical dimensions of an individual's home." (Payton v. New York),
18 this behavior on the part of the Defendants was clearly illegal, and the Plaintiffs had a
19 right to be free from this violation of their rights.
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23 46. The Plaintiff, Mrs. Karcz was then blinded by the light from a tactical high-lumen
24 flashlight, but was able to ask "what are you doing in my home? Why are you
25 searching my house?" To which the first policeman "North Tonawanda Police Officer
26 John Doe I", identified as a tall, heavyset man, dressed in the white uniform worn by a
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lieutenant or captain of the North Tonawanda Police Department, commanded her:

“don’t move!” Further unlawfully seizing the Plaintiff, and the Plaintiffs had a right to be free from this violation of their rights.

47. The Plaintiff Mrs. Karcz was scared and began to cry. When she stated her wish to dress, the North Tonawanda Police Officers refused to allow this and continued to detain the Plaintiff, Mrs. Karcz, at gunpoint without clothing in her own home, and the Plaintiff had a right to be free from this violation of their rights.

48. Upon information and belief, the North Tonawanda Police Officers’ behaviors at this time can only be objectively viewed as evincing a depraved indifference to the human life of the Plaintiff, Mrs. Karcz, in that they recklessly engaged in conduct which created a grave risk of death to the Plaintiff, and the Plaintiff had a right to be free from this violation of their rights.

49. Upon information and belief, the North Tonawanda Police Officers’ behaviors at this time constituted the felony crimes of Unlawful Imprisonment, 1st Degree, Burglary 1st Degree, Criminal Trespass 1st Degree, and Reckless Endangerment 1st Degree, as well as other lesser included offenses, and the Plaintiff had a right to be free from this violation of their rights.

50. Upon information and belief, the North Tonawanda Police Officers photographed Mrs. Karcz, without consent, on private property, in the nude, by using their North Tonawanda Police Department issued video cameras, and the Plaintiff had a right to be free from this violation of their rights.

1 51. The Plaintiff, Mrs. Karcz, states: "North Tonawanda Police Officer John Doe II,"
2 identified as an imposing, wide-looking man, in the dark uniform of a North
3 Tonawanda Police Department S.W.A.T. team member, or an officer lower than a
4 lieutenant or captain, was pointing an automatic rifle at her during the unlawful
5 detention, and the Plaintiff had a right to be free from this violation of their rights.

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8 52. Upon information and belief, the Plaintiff, Mrs. Karcz asked the police officer
9 described as "North Tonawanda Police Officer John Doe II;" "why are you pointing a
10 machine gun at me in my own home?" To this query, the police officer described as
11 "North Tonawanda Police Officer John Doe II," stated: "it's for our own protection,
12 stay where you are." Unlawful detention, and the Plaintiff had a right to be free from
13 this violation of their rights.

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15 53. Upon information and belief, the Officer John Doe II also stated: "We are looking for
16 your husband or boyfriend," the officer, John Doe II further stated: "We know he left
17 in a Black Lexus."

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20 54. The North Tonawanda Police, with intent to harass, annoy, or alarm the Plaintiff, Mrs.
21 Karcz, intentionally engaged in a course of conduct directed at such person which the
22 officer knew was likely to cause the Plaintiff to reasonably fear physical injury or
23 serious physical injury, the commission of a sex offense against, or the kidnapping,
24 unlawful imprisonment or death of herself or a member of such person's immediate
25 family, such as her husband or children, a criminal offense, and the Plaintiffs had a
26 right to be free from this violation of their rights.

1 55. The Plaintiff, Mrs. Karcz noticed that the doors to her kitchen pantry, cellar, and
2 garage were ajar, and asked the officers why they were searching her home. The North
3 Tonawanda Police Officers then replied to the Plaintiff that they would do as they
4 wished, and that she should tell them where her husband was. Given the fact the police
5 officers carried automatic weapons and were dressed in bulletproof vests, Mrs. Karcz
6 feared that their intent was to murder her husband, and the Plaintiffs had a right to be
7 free from this violation of their rights.
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10 56. The facts in this case are noteworthy for the absence of emergency. No one was in
11 distress. The police officers were not there because they perceived any imminent
12 danger of harm, and the Plaintiffs had a right to be free from this violation of their
13 rights.
14

15 57. A reasonable police officer would understand that they could not enter the home
16 without consent or a search warrant, and the Plaintiffs had a right to be free from this
17 violation of their rights.
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19 58. Due to the actions of the North Tonawanda Police, the sliding patio door had been
20 damaged, pried loose from its tracks, and that the latch was now loosely attached. The
21 gates on the fence which had been locked prior to the unlawful entry by the police,
22 were damaged and partly open, and the Plaintiffs had a right to be free from this
23 violation of their rights. The cost of the door and gate damage was approximately
24 \$2,000.00.
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27 59. The North Tonawanda Police Officers who broke into the Plaintiffs' home gave no
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1 explanation or apologies whatsoever to Mrs. Karcz as to their motivations and
2 intentions for breaking into the Plaintiffs residence at this time or any other, and no
3 official policy or explanation or apology was ever offered for this violation of the
4 Plaintiffs' constitutional rights to be free from illegal search and seizure. As a result of
5 the events alleged herein, and due directly to the actions taken by the individual
6 defendants, Mrs. Karcz suffered and continues to suffer emotional trauma, discomfort,
7 humiliation, fear, anxiety and embarrassment, among other things.
8

9
10 60. The North Tonawanda Police Officers involved in this incident, at all times, refused to
11 identify themselves, and the Plaintiffs had a right to be free from this violation of their
12 rights. By the conduct, acts, and omissions complained of in paragraphs 43-59 herein,
13 the Defendants violated clearly established constitutional standards under the United
14 States Constitution of which any reasonable police officer under the circumstances
15 would have known.
16

17
18 61. There is no enforcement of officer identity by the City of North Tonawanda, as part of
19 a pervasive custom or official policy and/or practice of the City of North Tonawanda's
20 Police Department, and the Plaintiffs had a right to be free from this violation of their
21 rights.
22

23 62. At no time during the course of the incident did Mrs. Karcz pose a threat to the safety
24 of Defendants or the public. Ms. Karcz was not engaging in any criminal activity, she
25 was not arrested, nor was she charged with a crime in connection with the events of
26 May 18, 2015. The conduct of the defendant officers, in detaining Mrs. Karcz and
27

1 using force against her, was totally without probable cause, was excessive, and was
2 done maliciously, falsely and in bad faith.

3
4 63. There was no exigency to legitimately allow the unlawful search and seizure: the
5 lights to the home were out, Mrs. Karcz was asleep with the telephone ringer off, no
6 noise, lights, smells, screams, or requests from within the home. After the first locked
7 barrier was broken into, the police had full access to looking through windows;
8 nothing was amiss. A reasonable police officer doesn't break and enter the home, they
9 return to the patrol or station, and the Plaintiffs had a right to be free from this
10 violation of their rights.
11

12
13 64. No consent was given to legitimately allow the unlawful search and seizure, and the
14 Plaintiffs had a right to be free from this violation of their rights.
15

16 65. Any items in the home at this time, searched, seized, or photographed by police,
17 possibly thought to be "contraband", were exactly the same as those "contraband"
18 items extant in the property searched, seized, and/or left by police on May 24, 2013,
19 and thereby "fruit of the poisonous tree."
20

21 66. Official confirmation of such items continued existence in the premises would forever
22 be tainted as "fruit of the poisonous tree," and the *Exclusionary Rule* due to the illegal
23 nature of the search and seizure and unattenuated linkage therefrom.
24

25 67. The search and seizure at this time was intrinsically unlawful and in violation of the
26 Plaintiffs' Constitutionally protected federal rights, and the Plaintiffs had a right to be
27

1 free from this violation of their rights.

2
3 68. Any portion of this search and seizure relied upon for a basis in the future for purposes
4 of a search warrant or other action against the Plaintiffs is likewise barred as “fruit of
5 the poisonous tree,” due not only to its unreasonableness and lack of attenuation to the
6 initial taint, but also to derivative relationship of the search on May 24, 2013.

7
8 69. There is no permissibility to search for items already excluded under law, and
9 although once unlawfully seized and controlled by law enforcement, abandoned due to
10 their own negligence.

11
12 70. The Plaintiff, Mr. Karcz, filed a letter of grievance with North Tonawanda Chief of
13 Police, William R. Hall, on May 21, 2015 demanding explanation, identification, and
14 discipline of the individual North Tonawanda Police Officers involved in the aforesaid
15 incident. The letter was ignored by North Tonawanda City officials, and the Plaintiffs
16 had a right to be free from this violation of their rights. By the conduct, acts, and
17 omissions complained of in paragraphs 63-70 herein, the Defendants violated clearly
18 established constitutional standards under the United States Constitution of which any
19 reasonable police officer under the circumstances would have known.

20
21
22 71. On or about May 23rd, 2015, Jennifer Karcz was painting in her home during the day.
23 At approximately 1:00 p.m., there was a knock on the front door by two uniformed
24 North Tonawanda Police Officers.

25
26 72. When Mrs. Karcz looked out she saw two uniformed North Tonawanda Police
27 Officers, identified as “NORTH TONAWANDA POLICE OFFICERS JOHN DOE III

1 AND IV” looking through the windows in front of her house and garage, and the
2 Plaintiffs had a right to be free from this violation of their rights. Mrs. Karcz spoke
3 through a locked screen door to the officers 10 to 20 feet away, and asked them what
4 was their purpose for being on her property and within her curtilage.
5

6 73. Upon information and belief, one of the officers stated: “we’ve received a call. “They”
7 thought it was too quiet.” The Plaintiff, Mrs. Karcz replied: “what’s wrong with quiet?
8 That’s the way it normally is in this neighborhood, so I would think it’s a good thing.”
9 The police officer replied “yes, ma’am it is. You’d better keep it that way.”
10

11 74. The policemen were within the curtilage of the home without permission or
12 justification, and the Plaintiffs had a right to be free from this violation of their rights.
13

14 75. The police actions at this time constituted a search of the Plaintiffs’ property, and the
15 Plaintiffs had a right to be free from this violation of their rights.
16

17 76. No charges were ever filed against the Plaintiffs, nor was any wrong-doing alleged in
18 this incident.
19

20 77. There was no exigency to legitimately allow the unlawful search and seizure, and the
21 Plaintiffs had a right to be free from this violation of their rights.
22

23 78. No consent was given to legitimately allow the unlawful search and seizure, and the
24 Plaintiffs had a right to be free from this violation of their rights.
25

26 79. As no exigent circumstance compelled the police to visit, and there was no credible
27
28

1 belief that any occupant of the house was in need of aid or assistance, neither the
2 exigency exception or “community caretaking” exception is available to these officers
3 for their visit, which was clearly directed at continuation of an ongoing pattern of
4 violation of the Plaintiffs’ constitutionally protected rights. By the conduct, acts, and
5 omissions complained of in paragraphs 72-78 herein, the Defendants violated clearly
6 established constitutional standards under the United States Constitution of which any
7 reasonable police officer under the circumstances would have known.
8

9
10 80. On June 8, 2015, Plaintiff John Karcz, was home when the front door to his home had
11 been smashed in by law enforcement officers without knocking and announcing their
12 presence, in violation of the law and conscious disregard for the provisions of the
13 search warrant they possessed, and the Plaintiffs had a right to be free from this
14 violation of their rights.
15

16 81. The Plaintiffs’ home was unnecessarily damaged, and the Plaintiffs had a right to be
17 free from this violation of their rights.
18

19 82. There was no consideration of the Plaintiffs’ personal dignity, and the Plaintiffs had a
20 right to be free from this violation of their rights.
21

22 83. No effort was made to offer the Plaintiff an opportunity for voluntary compliance.
23

24 84. Upon beginning to descend the stairs, he was confronted by North Tonawanda Police
25 Officer Richard Wydysh pointing a high caliber handgun at him, and the Plaintiff had
26 a right to be free from this violation of their rights.
27

1 85. Officer Wydysh ordered Mr. Karcz to raise his hands, so as to appear in front of him
2 fully nude as Wydysh filmed him with a City of North Tonawanda issued personal
3 body camera, videos which Wydysh admitted to possessing and continuing to view
4 over 12 months later, and the Plaintiff had a right to be free from this violation of their
5 rights.
6

7 86. A number of officers of the North Tonawanda Police Department and the Niagara
8 County Sheriff's Department (DTF) Drug Task Force dressed in military-style
9 uniforms, bulletproof vests, and a variety of extensive assault weaponry then entered
10 the Karcz home and began to conduct themselves in acts of vandalism, theft, and a
11 litany of civil rights violations while conducting an intentionally illegal search at the
12 direction of North Tonawanda Police Department Detective James Muehlbauer,
13 Niagara County Sheriff's Deputy Ronald P. Dworzanski, Niagara County Sheriff's
14 Captain Scott Lombardo, North Tonawanda Captain of Detectives Thomas E. Krantz,
15 and North Tonawanda Chief of Police William Hall, and the Plaintiffs had a right to
16 be free from this violation of their rights.
17
18

19 87. None of these actors had reason to believe the search was lawful as they'd all shared
20 in the knowledge of the previous "fruit of the poisonous tree" from May 24, 2013, and
21 the Plaintiffs had a right to be free from this violation of their rights. In full
22 acknowledgement of this, Chief Hall specifically endeavored to not enter the home or
23 curtilage at this time to attempt to "purge the taint" of illegality.
24
25

26 88. The other parties involved in the actions were "NIAGARA COUNTY DTF and/or
27 SHERIFF'S DEPUTIES JOHN DOE I, II, III, AND IV" of the Niagara County
28

1 Sheriff's Department.

2
3 89. Upon information and belief, Detective Muehlbauer stated: "I'm here for the Medical
4 Marijuana I left in your basement two years ago." Muehlbauer also stated to Detective
5 Kuebler, he was "mad at" the Plaintiff, Mr. Karcz, according to Kuebler.

6
7 90. Upon information and belief, Muehlbauer was referring to the unlawful search and
8 seizure of May 24, 2013.

9
10 91. The Plaintiff, Mr. Karcz asserted that this was an illegal search and that he wanted to
11 contact his attorney.

12
13 92. Upon information and belief, Detective Muehlbauer then stated: "I don't care; the
14 District Attorney, Bittner, got me a search warrant, and the judge signed it," and the
15 Plaintiffs had a right to be free from this violation of their rights.

16
17 93. The warrant had no affidavit attached, and warrant likewise failed to identify a
18 probable cause for its production. Nor did it specify the specific area or areas to be
19 searched within the large home, despite the requirement that the warrant adhere to
20 scrupulous specificity. These factors rendering the warrant insufficient to command a
21 search.

22
23 94. No *Miranda* warning was given to the Plaintiff, Mr. Karcz; ergo, no oral statements
24 were applicable suggestively incriminate the defendant or falsely charge him with
25 anything. The law enforcement officers however, were free to leave at any time, their
26 statements were not compelled by custody, and should be more interpretive of the
27 situation.

1 95. The Plaintiff, upon information and belief, asked Deputy Dworzanski; “did you lie to
2 the Judge (Lewis)? You must have committed perjury to get into my house.” Deputy
3 Dworzanski replied: “So what?” “He (Judge Lewis) signed it without even looking at
4 it, as soon as he heard your name. Fight it if you want, but you’ll spend half your life
5 in court. Ha, ha!”

6
7 96. Deputy Dworzanski, Detective Muehlbauer, et al, proceeded to search, seize, and take
8 photographs of private paperwork, jewelry belonging to Plaintiff Jennifer Karcz,
9 family memorabilia, artwork, furniture, and clothing in the house all contrary to the
10 provisions of the search warrant, and the Plaintiffs had a right to be free from this
11 violation of their rights.

12
13 97. Two sporting guns belonging to the Plaintiff, Mrs. Karcz, were seized contrary to the
14 provisions of the *Terry* Doctrine and the requirement for scrupulous specificity in
15 search warrants.

16
17 98. The sporting guns were not in plain view, were safely locked in a gun safe in the
18 Plaintiff, Mrs. Karcz, bedroom. A reasonable police officer would not have found it
19 necessary to open the safe.

20
21 99. The police involved in the search knew of the existence of the sporting guns and also
22 their location.

23
24 100. The location of the sporting guns’ locker was known only from the previous illegal
25 searches and seizures committed against the Plaintiffs.

26
27 101. The sporting guns were unlawfully seized, and the Plaintiffs had a right to be free
28

1 from this violation of their rights. Their value was \$1,500.00.

2
3 102. Despite total absence from the search warrant, and being at an unrelated address, a
4 boat belonging to the Plaintiffs at 351 Daniel Drive, was also seized, searched, and
5 intentionally damaged by police; with keys and personal property having been stolen
6 therefrom, and the Plaintiffs had a right to be free from this violation of their rights.
7 The loss totaling over \$2000.00.

8
9 103. Deputy Dworzanski, one of the leaders of the search, also intentionally proceeded to
10 damage an expensive WIFI thermostat without permission, and the Plaintiffs had a
11 right to be free from this violation of their rights.
12

13
14 104. In the course of the unlawful search, interior walls and doors were damaged,
15 children's bedrooms were vandalized with curtains ripped down and destroyed, and
16 windows were broken by Dworzanski and other law enforcement officers, and the
17 Plaintiffs had a right to be free from this violation of their rights. The loss from
18 damage to the home amounted to in excess of \$10,000.00.
19

20
21 105. Personal papers belonging to the Plaintiff, Mr. Karcz's pension documents and real
22 estate documents for both Plaintiffs' rental business were illegally searched and seized
23 from a garage safe, and the Plaintiffs had a right to be free from this violation of their
24 rights.
25

26 106. One of Mr. Karcz's bracelets, a gift from his wife was taken from the garage safe
27
28

1 while it was under the control of Deputy Dworzanski, and the Plaintiffs had a right to
2 be free from this violation of their rights. The property was valued at over \$1,000.00.

3
4 107. The Plaintiff, Mrs. Karcz's jewelry was removed from both an upstairs jewelry
5 armoire and also a garage safe, to which only Dworzanski had been supplied the
6 combination, and placed on the kitchen counter, and the Plaintiffs had a right to be
7 free from this violation of their rights.

8
9 108. Mr. Karcz saw one of the officers, identified as "Niagara County Drug Task Force
10 Officer JOHN DOE I," a clean-shaven man, approximately 6 feet tall, brown hair,
11 medium build, maroon shirt, take one of Mrs. Karcz's diamond and gold bracelets and
12 place it in his pocket, and the Plaintiffs had a right to be free from this violation of
13 their rights. The bracelet, purchased in St. Thomas, USVI, had cost the Plaintiff
14 \$4,200.00

15
16 109. A NCDTF officer also purposely urinated on the walls and floor of the Plaintiffs'
17 powder room, and the Plaintiffs had a right to be free from this violation of their
18 rights.

19
20 110. Despite being given combinations and having access to the Plaintiffs' three safes,
21 intentionally destroyed an expensive gun safe with sledge hammers in the driveway of
22 the home, and the Plaintiffs had a right to be free from this violation of their rights.

23
24 111. Upon information and belief, Lieutenant Mahoney arrived and said to the Drug Task
25 Force: "you guys better hurry up with this crap, (Plaintiff John) Karcz has an attorney
26 on the way," in full conspiracy and knowledge of the unlawful activity currently
27

underway.

112. “North Tonawanda Police Officer John Doe V,” a medium-tall height, stocky man wearing a dark N.T.P.D. uniform, baseball cap, seen standing in the driveway on the video, called to “Niagara County Drug Task Force Officer JOHN DOE I,” in the driveway and directed him to destroy the cctv security cameras which were visible in the front of the house, and the Plaintiffs had a right to be free from this violation of their rights.

113. “Niagara County Drug Task Force Officer JOHN DOE I” left the driveway, and proceeded to the Karcz family’s elder daughter’s bedroom, ripped down the curtains, pulled the screen from the window while intentionally damaging it, and climbed out on one of the house’s low pitched roofs where he proceeded to damage each cctv camera with his hands and a knife, and the Plaintiffs had a right to be free from this violation of their rights. Damage was estimated at \$2,500.00. By the conduct, acts, and omissions complained of in paragraphs 80-113 herein, the Defendants violated clearly established constitutional standards under the United States Constitution of which any reasonable police officer under the circumstances would have known.

114. The search warrant issued by City of North Tonawanda Judge William R. Lewis was predicated on perjury by police officers, suborned and attested to in bad faith by the Niagara County District Attorney’s office, and a personal failure of the Judge to carry out his required duties of vetting probable cause, and the Plaintiffs had a right to be free from this violation of their rights.

115. The search warrant did not abide the requirements for scrupulous exactitude,

1 particularity, or probable cause for the actual issuance of the search warrant, rendering
2 it illegal under federal law, and the Plaintiffs had a right to be free from this violation
3 of their rights.
4

5 116. City of North Tonawanda Judge William R. Lewis knowingly considered prejudicial
6 and illegally obtained knowledge presented to him by the North Tonawanda Police
7 Department under the guidance of the Niagara County District Attorney's Office,
8 derivative of prior unlawful police actions. The Plaintiffs had a right to be free from
9 this violation of their rights.
10

11 117. The information presented to City of North Tonawanda Judge William R. Lewis did
12 not meet the requirement for probable cause under the law as required to predicate a
13 search warrant, and upon information and belief, considered non-professionally
14 predicated opinions and hearsay. Upon information and belief, Judge Lewis also
15 garnered prejudicial hearsay from an ongoing close, personal relationship with the
16 Plaintiffs' next-door neighbor Priscilla "Pat" Wattengel. The consideration of these
17 factors were beyond the scope of the Lewis's authority. The Plaintiffs had a right to be
18 free from this violation of their rights.
19
20

21 118. In requesting the search warrant against the Plaintiffs, the prosecutors, witnesses,
22 and/or affiants, upon information and belief, intentionally and knowledgeably perjured
23 themselves with blatant and intentional disregard to the civil rights of Mr. and Mrs.
24 Karcz. By assisting the police in preparing the search warrant affidavit and
25 application, the prosecutor took on police work. The Plaintiffs had a right to be free
26 from this violation of their rights.
27
28

119. All of the testimony received by Judge Lewis in support of the search warrant was from police sources knowingly and illegally collected in violation of the 4th, 5th, 9th, and 14th Amendments of the United States Constitution, and the North Tonawanda Court had no jurisdiction over the Plaintiffs due to the circumstance of an underlying search warrant totally lacking in indicia for probable cause.

120. City of North Tonawanda Judge William R. Lewis had a record of violating the Plaintiff's constitutional rights under the 5th, 6th, and 14th Amendments by an unlawful ruling in 2008. Judge Lewis is not necessarily incompetent; and has held his office for many years, however, his dealings with the Plaintiff, Mr. Karcz, consistently lead to violations of the Plaintiffs' legal rights. Therefore, it is more likely than not Lewis acted in bad faith and out of improper motivations.

121. As a result of their past history, whereby City of North Tonawanda Judge William R. Lewis was caught violating the Plaintiff, Mr. Karcz's constitutional rights, Lewis had the improper motivation to, and is likely to have acted on a personal bias towards the Plaintiff by his action of authorizing what he knew was a clearly illegal search warrant. The Plaintiffs had a right to be free from this violation of their rights.

122. Judge Lewis knew that the evidence must also pass a test of reliability that our justice system calls probable cause. The Fourth Amendment itself spells out the evidence required for a warrant or entry order. This test of reliability was not achieved, as the bases supplied were separately and severally objectively unreasonable for such finding. By not protecting the Plaintiffs' rights with equity, Lewis's conduct exceeded the scope of his discretionary authority in a manner no reasonable official would have

1 under the circumstances.

2
3 123. No probable cause standard was met here because Judge Lewis didn't do his job
4 impartially and request such proof, nor had he any intention of protecting the
5 Plaintiffs' constitutional rights as his job requires, due to his personal enmity towards
6 the Plaintiff Mr. Karcz, and the Plaintiffs had a right to be free from this violation of
7 their rights.
8

9
10 124. Despite being named as the subject and/or suspect of the search warrant the Plaintiff,
11 Mr. Karcz, had no contact with members of North Tonawanda Police Department or
12 the Niagara County Sheriff's Department at the address involved any time during the
13 many months preceding production of the search warrant.
14

15 125. The Plaintiff, Mr. Karcz, had no contact whatsoever with any of the warrant's
16 affiants or any witnesses named therein since May 23, 2013, rendering their testimony
17 towards his knowledge or involvement in any activities at 357 Daniel Drive,
18 unacceptable for a probable cause finding and obvious perjury, and the Plaintiff had a
19 right to be free from this violation of their rights.
20

21 126. The Plaintiff, Mrs. Karcz, was not present during the search warrant enactment, and
22 presented no valid reason to be charged with any crime.
23

24 127. The Plaintiff, Mrs. Karcz had no provable relation to the possession of any
25 "contraband" in the home and was unlawfully charged days later by the prosecution to
26 exert undue pressure on the Plaintiffs, and the Plaintiffs had a right to be free from this
27 violation of their rights.
28

1 128. The Plaintiff, Mr. Karcz had no provable relation to the possession of any
2 “contraband” in the home, despite the false assertions of the police as “complaining
3 witnesses.”
4

5 129. Upon information and belief, there was no probable cause to arrest or charge Mrs.
6 Karcz as there was no probable cause to name her on the search warrant, and no
7 additional evidence was thereby uncovered which brought a change to that
8 circumstance. Mrs. Karcz was charged only as a capricious manipulation of the laws
9 to deny Mr. Karcz the support of an uncharged family member. The Plaintiffs had a
10 right to be free from this violation of their rights.
11

12 130. Despite differential arrests, and for separate reasons which both lacked probable
13 cause, the prosecution refused to bifurcate the cases against the Plaintiffs despite
14 repeated requests by counsel, and the Plaintiffs had a right to be free from this
15 violation of their rights.
16
17

18 131. Upon information and belief, the reason for the forced joinder of the Plaintiffs as
19 Defendants was intended to deny either partner in marriage the opportunity to
20 challenge the District Attorney for wrongful arrest and malicious prosecution, and the
21 Plaintiffs had a right to be free from this violation of their rights.
22

23 132. Upon information and belief, the District Attorney used the Plaintiffs’ love for each
24 other to cause harm each unto the other in violation of the 9th Amendment of the
25 United States Constitution, and the Plaintiffs had a right to be free from this violation
26 of their rights.
27
28

1 133. The Plaintiff, Mr. Karcz was one of several owners of the property at 357 Daniel
2 Drive, North Tonawanda, New York, but the only owner named in the search warrant.
3 No effort was made to determine the parties who actually resided in the residence,
4 inclusive of adult friends and family members living with the plaintiffs.
5

6 134. The Plaintiff, Mr. Karcz, owned several other properties in Niagara Falls at the time
7 of the investigation leading to the search warrant, and was generally domiciled there,
8 rendering the reasoning applied to naming him the subject of the search warrant
9 fallacious, and once again eviscerating any probable cause, and the Plaintiffs had a
10 right to be free from this violation of their rights.
11

12 135. Upon information and belief, in approving the search warrant in violation of the
13 Plaintiffs' constitutional right to be free from unlawful search and seizure, and not
14 discharging his duty as a jurist lawfully, City of North Tonawanda Judge William R.
15 Lewis intentionally took personal action "in the face of clearly valid statutes," with
16 blatant and intentional disregard to the civil rights of Mr. and Mrs. Karcz, and the
17 Plaintiffs had a right to be free from this violation of their rights.
18

19
20 136. Upon information and belief, the North Tonawanda Police Department, The Niagara
21 County Sheriff's Department, in conspiracy with and under direction from The
22 Niagara County District Attorney's Office intentionally and/or recklessly withheld
23 potentially exculpatory information from the court, and the Plaintiffs had a right to be
24 free from this violation of their rights.
25

26 137. Upon information and belief, in requesting the search warrant in violation of the
27 Plaintiffs' constitutional right to be free from unlawful search and seizure, and not
28

1 honestly discharging their duties as police officers lawfully, James Muehlbauer and
2 Ronald P. Dworzanski intentionally took personal action with blatant and intentional
3 disregard for the law and civil rights of Mr. and Mrs. Karcz, and the Plaintiffs had a
4 right to be free from this violation of their rights.
5

6 138. In the ensuing procedures of the case brought against the clients, the two assigned
7 Assistant District Attorneys, Laura T. Bittner and Kevin D. Canali, despite knowing
8 the inconsistencies of the case in chief, vehemently refused to allow the Plaintiffs'
9 defense counsel access to potentially exculpatory information in the perjured search
10 warrant affidavits, and the Plaintiffs had a right to be free from this violation of their
11 rights.
12

13 139. Upon information and belief, the Niagara County District Attorney's Office
14 conspired, in violation of law, to deprive the Plaintiffs of access to substantial justice,
15 by advising the NTPD and NCSD and/or the NCDTF in investigative and search
16 warrant affidavit production, and the Plaintiffs had a right to be free from this
17 violation of their rights.
18

19
20 140. Upon information and belief, A.D.A. Canali allegedly stated to a credible witness
21 (Detective Kuebler), who, of their own volition, repeated the information to Mr.
22 Karcz, that his (A.D.A. Canali's) case was very weak due to being based primarily on
23 a questionable "wellness check" and a fatuous "protective sweep" made while Mrs.
24 Karcz was erroneously being held at gunpoint by police, and that additionally he
25 doubted the veracity of the state's "complaining witnesses" (law enforcement officers)
26 but claimed he was unauthorized to drop the charges. Based on the context of the
27
28

1 conversation, wherein Kuebler was claiming to have “helped” the Plaintiff, Mr. Karcz,
2 of his own volition, by his intrusive invasion of the Plaintiff’s privacy, and had no
3 motivation to lie, his veracity seems likely.
4

5
6 141. A.D.A. Canali did, however, propose and request that the Court accept, a plea
7 bargain unrelated to the search warrant, in a further attempt to hide the illegalities
8 hidden therein, and the Plaintiffs had a right to be free from this violation of their
9 rights.
10

11 142. Upon information and belief, A.D.A. Canali therefore insisted in dropping all
12 charges brought about by the reasonably excludible evidence of the search, in tacit
13 acknowledgement of it being “fruit of the poisonous tree,” and attempting to deprive
14 the plaintiffs of this claim on appeal.
15

16 143. Upon information and belief, A.D.A. Bittner absolutely refused to provide the search
17 warrant affidavit to any of the Plaintiffs’ three attorneys, and threatened to take
18 retributive and retaliatory actions against the Plaintiffs if the plea bargains were not
19 accepted by both without access to the exculpatory evidence derivable from the
20 affidavit.
21

22
23 144. Upon information and belief, the plea bargains demanded by both A.D.A. Bittner
24 and A.D.A. Canali, however, in an attempt to insulate themselves from the pall of
25 wrongdoing, and their office from wrongdoing, were not for lesser included crimes or
26 even related to those charged under the dubious search warrant, and the Plaintiffs had
27
28

1 a right to be free from this violation of their rights.

2
3 145. By denying the Plaintiffs' access to potentially exculpatory information related to
4 and found within the search warrant affidavit, the District Attorney's Office and its
5 individual agents denied the Plaintiffs access to substantial justice, and the Plaintiffs
6 had a right to be free from this violation of their rights.

7
8 146. Upon information and belief, no *Brady* Material was produced by the prosecutor,
9 despite its unequivocal existence, and the Plaintiffs had a right to be free from this
10 violation of their rights.

11
12 147. Upon information and belief, by refusing to prosecute the law enforcement officers
13 who committed felonious criminal acts in the Plaintiff's home, the Niagara County
14 District Attorney, Michael Violante, and his subordinates suborned a pervasive
15 disregard for the law, and thereby assume personal liability for acting under Color of
16 Law to violate the Plaintiffs' federally protected rights, and the Plaintiffs had a right to
17 be free from this violation of their rights.

18
19 148. District Attorney Michael Violante also failed to abide by his oath of office and ABA
20 Rules: Prosecutors who supervise subordinates may not encourage or ratify
21 misconduct by subordinates and must make reasonable efforts to ensure that
22 subordinates abide by ethical rules. Violante is ultimately responsible for the acts of
23 his assistants. (See, e.g., ABA Model Rules 5.1, 5.3 and 8.4(a), NY Cty L § 825
24 (2015). This action was in violation of Due Process and Equal Protection, and the
25 Plaintiffs had a right to be free from this violation of their rights.
26
27
28

1 149. In late June 2015, the Plaintiff, Mr. Karcz was approached by North Tonawanda
2 Police Detective Lawrence Kuebler who, upon information and belief, had secretly
3 purchased the distressed home next door to the Plaintiffs during the events leading up
4 to the production of the unlawful search warrant. Kuebler confronted the Plaintiff,
5 identified himself as a police officer “who was ready to retire.” Kuebler then said he’d
6 been “told” the Plaintiffs “hated all cops” by Shiesley, and “were trying to get
7 (Officer) Shiesley in trouble.” Kuebler, who falsely claimed to be uninvolved with the
8 prior unlawful investigations of the Plaintiff, Mr. Karcz, without provocation or
9 consent inserted himself in the Plaintiffs’ legal affairs and began discussing the
10 Plaintiffs’ private business with Defendants Hall, Muehlbauer, Canali, Shiesley, and
11 others. This constituted, violation of the Plaintiffs’ rights to privacy and police
12 harassment under Color of Law, and the Plaintiffs had a right to be free from this
13 violation of their rights.
14
15

16
17 150. Beginning on or about June 8, 2015, and continuing through on or about June 14,
18 2015, North Tonawanda Captain of Detectives Thomas E. Krantz, North Tonawanda
19 Chief of Police William R. Hall, and Niagara County Sheriff James R. Voutour, acting
20 as publishers and/or repeaters, contacted or directed to be contacted at least 12 venues
21 of publicity including the newspaper press, television news, and even online social
22 media networks to give “press releases” with the purpose to deliberately defame the
23 Plaintiff, Mr. Karcz in the community where he, his wife, and his children are
24 domiciled. Upon information and belief, the “press releases” were without purpose
25 other than disclosing private information in a highly objectionable manner and
26 negatively influencing the opinion of others against. The tortious acts thereof
27
28

1 consisted of intrusive invasion of privacy, presenting Mr. Karcz in a false light, and
2 public revelation of private and unproven facts, and was done so for improper purpose
3 and with malice. The Plaintiff, Mr. Karcz, and the Plaintiff had a right to be free from
4 this violation of their rights.

5
6 151. The defamatory information published over and over again due to Krantz's incessant
7 contact of the press, on behalf of Hall and Voutour, consisted of photos purported to
8 be inside the Karcz home, the specific address of the Karcz residence, and a variety of
9 unfounded, never proven, and prejudicial allegations presented as fact under authority
10 of the North Tonawanda Police Department and Niagara County Sheriff's Office. The
11 specific tort herein was the excessive publication, with malice and improper purpose,
12 which cast the Plaintiffs in a false light. The Plaintiffs had a right to be free from this
13 violation of their rights.

14
15
16 152. Upon information and belief, the Plaintiff's employer was contacted based on the
17 pension information taken unlawfully from his home by law enforcement officials,
18 and where Mr. Karcz was well employed making over \$80,000.00 per year, and the
19 Plaintiff had a right to be free from this violation of their rights.

20
21 153. Upon information and belief, after the Plaintiff's employer was contacted by law
22 enforcement to publicize the event of Mr. Karcz's arrest without purpose other than
23 disclosing private information in a highly objectionable manner and negatively
24 influencing the opinion of others against the Plaintiff, Mr. Karcz. Mr. Karcz was fired
25 from his job immediately, and the Plaintiff had a right to be free from this violation of
26 their rights.
27

1 154. Upon information and belief, the “press releases” produced by North Tonawanda
2 Captain of Detectives Thomas E. Krantz, North Tonawanda Chief of Police William
3 R. Hall, and Niagara County Sheriff James R. Voutour also served to publicize the
4 address where the Plaintiff, Mr. Karcz lived with his young children, thereby
5 purposely and intentionally denying the Plaintiffs and their family the right to
6 seclusion and jeopardizing the children’s safety, and the Plaintiffs had a right to be
7 free from this violation of their rights.
8

9 155. Upon information and belief, because the “press releases” produced by North
10 Tonawanda Captain of Detectives Thomas E. Krantz, North Tonawanda Chief of
11 Police William R. Hall, and Niagara County Sheriff James R. Voutour disclosed
12 private information about the Plaintiffs’ address in a highly objectionable manner,
13 with no legitimate public concern and negatively influencing the opinion of others
14 against the Plaintiff, Mr. Karcz, the Plaintiff’s family was denied their right to
15 substantial dignity and suffered the indignity of being a point of ridicule for the
16 ignorant of the community and curiosity seekers some of whom yelled obscenities at
17 the Plaintiffs and their children, and the Plaintiff had a right to be free from this
18 violation of their rights.
19
20

21 156. Due to the wanton and unlawful use of this publicity against the Plaintiff, Mr. Karcz,
22 upon information and belief has been unable to secure employment despite securing
23 nearly 100 interviews and over 700 applications nationwide, and the Plaintiff had a
24 right to be free from this violation of their rights.
25
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1 157. Due to the Plaintiffs' public defamation by law enforcement officials, and
2 harassment by certain police officers, the Plaintiffs' minor children were forced to
3 leave their assigned school in the City of North Tonawanda and the Plaintiffs were
4 forced to pay tuition for their education in the neighboring Town of Amherst, and the
5 Plaintiffs had a right to be free from this violation of their rights.
6

7
8 158. The Plaintiff, Mrs. Karcz, contacted the New York State Office of Workers'
9 Compensation on or about May 20, 2015, and, exercising her rights to free expression
10 and association, and constitutionally protected speech, reported an individual that
11 lived in her neighborhood for fraudulently collecting benefits. The Workers'
12 Compensation Board independently verified Mrs. Karcz complaint and instituted an
13 investigation. The individual accused of fraud was North Tonawanda Police Officer
14 Jeff Shiesley.
15

16 159. Beginning on June 10, 2015, and continuing through June 22, 2015, in direct reprisal
17 for the Plaintiff, Mrs. Karcz's constitutionally protected report to N.Y.S. Worker's
18 Compensation, North Tonawanda Police Officers Richard Wydysh and Jeff Shiesley
19 harassed the Plaintiffs at the Drake Elementary School where the Plaintiffs' children
20 attended, and the Plaintiffs had a right to be free from this violation of their rights.
21

22 160. On several occasions between June 9, 2015 and June 22, 2015, North Tonawanda
23 Police Officers Richard Wydysh and Jeff Shiesley together and separately harassed the
24 Plaintiffs at the Drake Elementary School by stating aloud in the Plaintiffs' and other
25 citizen's presences that they had nude photographs of Mr. and Mrs. Karcz taken by
26 North Tonawanda city-owned police cameras which were illegally brought by
27
28

1 Wydysh and other North Tonawanda Police Officers into the Plaintiffs' home on or
2 about May 18, 2015 and June 8, 2015, and the Plaintiffs had a right to be free from
3 this violation of their rights. Officers Richard Wydysh and Jeff Shiesley together and
4 separately harassed the Plaintiffs by falsely telling other parents and teachers at the
5 Drake Elementary School that the Plaintiffs were "arrested for drug dealing" –
6 outright lies. The defamatory statements were presented as "official police
7 information," and the Plaintiffs had a right to be free from this violation of their rights.
8

9
10 161. The above described conduct and actions of the individual Defendants, acting under
11 color of law, deprived Plaintiff of her rights to free expression and association, was
12 done due to Defendants' personal animus and bias against the content of Plaintiff's
13 speech, and in retaliation against Plaintiff's exercise of her constitutionally protected
14 free speech; was done to interfere with, and chill, the exercise of free speech and
15 association, and was done intentionally, maliciously, with a deliberate indifference
16 and/or with a reckless disregard for the natural and probable consequences of their
17 acts, was done without lawful justification or reason, and was designed to and did
18 cause specific and serious pain and suffering in violation of Plaintiff's constitutional
19 rights as guaranteed under 42 U.S.C. 1983, and the First and Fourteenth Amendments
20 to the United States Constitution.
21

22
23 162. North Tonawanda Police Officer Jeff Shiesley also told several of the Plaintiffs'
24 neighbors Mr. Karcz was a "pot head." Since Shiesley disclosed private information
25 about the Plaintiff in a highly objectionable manner, with no legitimate public concern
26 and negatively influencing the opinion of others against the Plaintiff, Mr. Karcz, the
27
28

1 Plaintiff's family was denied their right to substantial dignity and suffered the
2 indignity of being a point of ridicule for the ignorant of the community and curiosity
3 seekers some of whom have yelled obscenities at the Plaintiffs and their children
4 based on Shiesley's behavior. The defamatory statements were presented as "official
5 police information," and the Plaintiffs had a right to be free from this violation of their
6 rights.
7

8
9 163. In direct relation, reprisal, conspiracy and retaliation against the decision which
10 curtailed the illegal harassment of the police department relative the Plaintiffs' parking
11 of their vehicle, boat, and trailer on the paved area they own in front of 351 Daniel
12 Drive (in 2013), City Attorney Shawn P. Nickerson requested an unlawful amendment
13 to the *North Tonawanda City Code Section 96 – Vehicle and Traffic, Article VII –*
14 *Terrace Parking* on July 7, 2015, and the Plaintiffs had a right to be free from this
15 violation of their rights.
16

17
18 164. In his request, upon information and belief, Nickerson specifically singled out trailers
19 and boats that were parked on a paved half/circle/terrace such as the one Plaintiff
20 Jennifer Karcz owns next door to her home at 351 Daniel Drive.
21

22 165. The wording of the amendment proposed by Nickerson, upon information and belief,
23 was so unique and specific that it applied only to one single property in the City of
24 North Tonawanda – the property at 351 Daniel Drive owned by Jennifer Karcz.
25

26 166. According to the resolution, upon information and belief, Nickerson requested to be
27 passed by the North Tonawanda Common Council, the amendment would become
28

1 effective the day after publication in the official paper of North Tonawanda; as of July
2 2016, no such publication has ever taken place, yet Nickerson personally mailed the
3 Plaintiffs a letter claiming they were in violation.

4
5 167. Making the enforcement of the parking ban against the Plaintiffs effectively an
6 illegal ordinance applied to one individual party without due process of law, and the
7 Plaintiffs had a right to be free from this violation of their rights.

8
9 168. On or about July 18, 2015, upon information and belief, North Tonawanda Police
10 Officer Jeff Shiesley falsely reported that the Plaintiffs were photographing his son at
11 a local park, and attempted to press charges so that Mr. Karcz be illegally arrested, and
12 the Plaintiffs had a right to be free from this violation of their rights.

13
14
15 169. The Karcz family was attending an event where their eldest daughter was invited to
16 compete in a sports competition, and were filming their own child.

17
18 170. Upon information and belief, the Assistant District Attorney for North Tonawanda,
19 Canali, then called the Plaintiffs' attorney, who notified them of Shiesley's fallacious
20 claims. It was also conveyed by the Plaintiff's former attorney, Damon DeCastro, that
21 Shiesley wished to do physical harm to Mr. Karcz. This caused the Plaintiffs to be
22 alarmed, seriously annoyed, and placed in fear of false arrest, and the Plaintiffs had a
23 right to be free from this violation of their rights.

24
25 171. The Prosecutor's office did not properly investigate Shiesley's veracity or motivation
26 before levelling their verbal accusation against the Plaintiff, and the Plaintiffs had a
27 right to be free from this violation of their rights.

1 172. In mid-November of 2015, the Plaintiffs' boat and trailer were once again ticketed,
2 on private property, for being "non-registered vehicles on a public roadway," which
3 was renewed official harassment, and the Plaintiffs had a right to be free from this
4 violation of their rights.

5
6 173. The City Attorney's Secretary Linda Krempa informed Mr. Karcz that he was now
7 being ticketed at direct request of the North Tonawanda Chief of Police William R.
8 Hall, and the Plaintiffs had a right to be free from this violation of their rights.
9

10
11 174. Mrs. Krempa provided him abstracts that Hall had personally printed to show
12 ownership of his boat and trailer and brought to the City Attorney's Office prior to
13 ordering his officers to write the retaliatory citations.
14

15 175. Several days later, Mr. Karcz received a letter from City Attorney Nickerson
16 accusing him of parking on the terrace of his wife's property, and threatening to tow
17 his vehicle and conveyances from the property, and the Plaintiffs had a right to be free
18 from this violation of their rights.
19

20
21 176. The Plaintiffs' were directed by the Linda Krempa in the North Tonawanda City
22 Attorney's Office to pay a \$20.00 fee for an application which would allow them to
23 continue parking on their own property. Despite paying the fee, the application was
24 ignored, and no answer was sent to the Plaintiffs, and the Plaintiffs had a right to be
25 free from this violation of their rights.
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1 177. All of the above actions regarding the Plaintiffs' spare lot at 351 Daniel Drive, taken
2 together, constitute harassment to the Plaintiffs and is a singular retaliation where a
3 municipal ordinance was attempted to be changed without due process, and unfairly
4 enforced by the North Tonawanda City Attorney, Shawn P. Nickerson, and the
5 Plaintiffs had a right to be free from this violation of their rights.
6

7 178. Upon information and belief, Nickerson's actions are based in part on a desire to
8 retaliate for his close friend Robert Brennan, who formerly parked on the vacant lot
9 and was outbid by Mrs. Karcz for ownership, and the Plaintiffs had a right to be free
10 from this violation of their rights.
11

12 179. As a result, Nickerson, upon information and belief, has also acted in conspiracy with
13 the North Tonawanda Chief of Police, William R. Hall, under Color of State Law, to
14 harass and arbitrarily and capriciously deprive the Plaintiffs of their federal
15 constitutionally protected rights to property, and the Plaintiffs had a right to be free
16 from this violation of their rights.
17

18 180. On June 30, 2015, Plaintiff Jennifer Karcz, was walking her infant in a pram stroller
19 approximately 100 yards from her own home when North Tonawanda Police Officer
20 Jeff Shiesley came out of his own home and acted in a menacing fashion brandishing
21 and displaying a bludgeon, bat, or club, and the Plaintiff had a right to be free from
22 this violation of their rights.
23

24 181. While armed with the aforesaid weapon, Shiesley, upon information and belief, was
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26
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28

1 heard by the Plaintiff to say: "I'll fucking kill you bitch!" Plaintiff had a right to be
2 free from this violation of their rights.

3
4 182. The Plaintiff, Mrs. Karcz, quickly walked away, but activated her cell phone camera
5 before attempting to pass Shiesley's residence on the opposite side of the street to
6 make her way home. Plaintiff had a right to be free from this violation of their rights.

7
8
9 183. Shiesley, upon information and belief, attempted to frighten, harry, harass, and
10 intimidate the Plaintiff with no right to do so by releasing a large unleashed dog and
11 walking across the street directly in Jennifer Karcz's path, and the path of her infant in
12 the pram, while still wielding the weapon. Plaintiff had a right to be free from this
13 violation of their rights.

14
15
16 184. When Officer Shiesley saw the cell phone in the Plaintiff's hand, he finally yielded
17 the path and allowed her to pass by.

18
19 185. On July 15, 2016, North Tonawanda Police Detective Lawrence Kuebler, who
20 recently moved into the foreclosed home next door to 357 Daniel Drive where the
21 Plaintiff and her children reside, contacted and informed the Plaintiff, John Karcz, that
22 a warrant had been issued for his arrest for the crime of "probation violation" (VOP)
23 by Judge Lewis in the City Court of North Tonawanda.

24
25
26 186. On or about December 3, 2015, City Court of North Tonawanda Judge William R.
27 Lewis promised, on the record, not to sentence the Plaintiffs to any jail time for either
28

1 Plaintiff, and to immediately seal Mrs. Karcz conviction, in exchange for the Plaintiffs
2 entering a false guilty plea in satisfaction of the charges against them, forcing the
3 guilty plea by unethical legal duress, and upon information and belief, in conspiracy
4 with the prosecution. Plaintiffs had a right to be free from this violation of their rights.
5

6 187. Upon information and belief, Judge Lewis conspired with and assisted the role of the
7 prosecution by making promises, inclusive of immediately sealing Mrs. Karcz
8 conviction, in exchange for a coerced guilty plea. For the judge to become involved in
9 the plea bargaining and to agree to a moderation of sentence in exchange for a guilty
10 plea is unethical. Ergo, the criminal action was terminated by a compromise which did
11 not provide any indicia of innocence or guilt, nor the opportunity for such issues to be
12 determined without reasonable dispute.
13

14
15 188. On May 5, 2016, after accepting a guilty plea in exchange for promising no jail time
16 and immediately sealing the conviction of Mrs. Karcz; Judge William R. Lewis
17 sentenced the Plaintiff, Mr. Karcz, to 3 years of probation supervision while
18 specifically ordering, on the record, that Mr. Karcz continue to work in the State of
19 Pennsylvania, during the weekdays. Lewis also stated the Plaintiff was stupid.
20

21 189. As a result, the Court did not direct the Plaintiff to report in any specific manner, but
22 instead directed Mr. Karcz to continue working in Pennsylvania and the order of the
23 Court effectively precluded the Plaintiff from appearing in person to the probation
24 office during the work week; however, Mr. Karcz was in fact available to report by
25 telephone or on the weekends.
26
27
28

1 190. The probation office refused to accept this reasonable course of action, despite the
2 fact many other probationers report only by telephone, since the overriding purpose of
3 probation is rehabilitation, not harassment or punishment.
4

5 191. The Plaintiff explained this order of the Court to his assigned probation office both
6 by telephone and by letter sent from his place of employment in Pennsylvania, and
7 offered several alternatives which would allow the Court's seemingly conflicting
8 mandate to be carried out.
9

10 192. Upon information and belief, the Court now attempts to illegally contradict its
11 previous order of probation, by accusing the Plaintiff, John Karcz, of violating his
12 probation sentence. Plaintiff had a right to be free from this violation of their rights.
13
14

15 193. Upon information and belief, by issuing an arrest warrant, Judge William R. Lewis
16 has once again unduly exercised prejudicial behavior towards the Plaintiff, and
17 attempting to punish the Plaintiff for his own ambiguities, errors, and contradictions.
18
19

20 194. There was no violation of probation as Mr. Karcz abided by all lawful orders of the
21 Court including fines and community service completion. Under NYS CPL 410.30 (2)
22 the Court had no reason to accept as true that there existed reasonable grounds to
23 believe that a violation had occurred, and was once more acting in a capricious fashion
24 against the Plaintiff in violation of his 5th Amendment rights. Plaintiff had a right to
25 be free from this violation of their rights.
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1 195. Furthermore, when the sentence of probation was imposed, it was fixed at the
2 maximum punishment available under law, given the judge's promise in exchange for
3 the plea and preferential treatment for one of the Plaintiffs; and is a legal sanction in
4 itself.
5

6
7 196. There is no legal permissibility for an increase of sentence or conditions under
8 probation without due process or probable cause, and Judge Lewis ordering a warrant
9 of arrest to do so is eviscerative of the lawful rights of Mr. Karcz to be free from
10 double jeopardy.
11

12 197. By ordering the Plaintiff's arrest and concomitant detention, City Court of North
13 Tonawanda Judge William R. Lewis acted in violation of the Plaintiff's federal right
14 to protection against double jeopardy. Plaintiff had a right to be free from this
15 violation of their rights.
16

17
18 198. By interfering with the Plaintiff, John Karcz's right to earn a living wage, Judge
19 Lewis likewise violates federal double jeopardy protections, and denies the Plaintiff
20 his federal rights under Color of Law. Plaintiff had a right to be free from this
21 violation of their rights.
22

23 199. On July 20, 2016, the Plaintiff, John Karcz, appeared in City of North Tonawanda
24 Court to answer and confront the allegation brought by Judge Lewis' most recent
25 warrant.
26

27 200. Judge Lewis claimed, on the record, that he only summoned Mr. Karcz to court via a
28

1 “letter,” stating the probation department filed a “Declaration of Delinquency” due to
2 his own (Judge Lewis’) errors in this matter.

3
4 201. Judge Lewis lied, again demonstrating a pervasive pattern of incompetence and bias,
5 in making this false assertion, as no “letter” of summons or was ever produced or sent
6 to the Plaintiff. Plaintiff had a right to be free from this violation of their rights.

7
8 202. The only mail received by the Plaintiff, Mr. Karcz, from the Court was a notice of
9 “Warrant of Arrest,” that was actually sent after the Plaintiff had already appeared in
10 court; upon information and belief, 6 days after Lewis signed a tangible warrant.

11
12 203. Upon information and belief, Judge Lewis had also set a bail on the docket in excess
13 of the bail for the original charge. Plaintiff had a right to be free from this violation of
14 their rights.

15
16 204. Mr. Karcz, by previous appointment, met with Detective Kuebler and was arrested;
17 Kuebler oversaw the “booking” process in the area adjacent to the court room where
18 the Plaintiff would see Judge Lewis.

19
20 205. The Plaintiff brought sufficient funds for bail, but was not allowed to post it by
21 Detective Kuebler. Plaintiff had a right to be free from this violation of their rights.

22
23 206. The Plaintiff, John Karcz, had been secondarily searched upon entry to the booking
24 area by Detective Kuebler who was assisting the booking officer with an arrest
25 inventory.

26
27 207. Officer Richard Wydysh then entered the room, after transporting a prisoner, and
28

1 interjected himself into the booking without need, provocation, or necessity.

2
3 208. Officer Wydysh immediately walked behind the Plaintiff, John Karcz, and started
4 rudely snapping latex gloves, upon information and belief, with the intent to agitate,
5 annoy, harry, and harass the Plaintiff. Plaintiff had a right to be free from this violation
6 of their rights.

7
8 209. Officer Wydysh ordered the Plaintiff to put his hands on his head, and began
9 fondling Mr. Karcz from behind in an inappropriate manner. Plaintiff had a right to be
10 free from this violation of their rights.

11
12 210. Wydysh then ordered Mr. Karcz, a devout Jew, to remove his constitutionally
13 protected Yarmulke. When Mr. Karcz removed his prayer cap for a momentary
14 legally required inspection, Wydysh refused to allow him to put it back on his head.
15 Plaintiff had a right to be free from this violation of their rights.

16
17 211. When Mr. Karcz asserted his constitutionally protected right to replace his federally
18 protected prayer cap, Wydysh became extremely angry and began violently squeezing
19 Mr. Karcz's hands together behind his head, causing pain and numbness. Plaintiff had
20 a right to be free from this violation of their rights.

21
22 212. When the Plaintiff asked Wydysh to cease and desist in his act of violence, Wydysh
23 became even angrier, then threatened and pushed the Plaintiff. Plaintiff had a right to
24 be free from this violation of their rights.

25
26 213. Officer Wydysh then touched the Plaintiff's buttocks without provocation, and for no
27

legitimate reason. Plaintiff had a right to be free from this violation of their rights.

214. When the Plaintiff protested the impropriety of the actions being committed by Wydysh, the other police in the room, including Detective Kuebler, the booking officer (blonde female, mid-fifties), Lieutenant Willard, Officer Smith, Officer Terry Huey, ignored the acts and the concomitant protest by Mr. Karcz; and allowed Wydysh to place handcuffs on the Plaintiff, causing pain, injury, and impairment to the Plaintiff. Plaintiff had a right to be free from this violation of their rights.

215. Wydysh then intentionally touched the Plaintiff's penis through his pants. Plaintiff had a right to be free from this violation of their rights.

216. When the Plaintiff asked Officer Wydysh to cease and desist, upon information and belief, Wydysh said: "if you don't let me do this, it's going to go badly for you." Wydysh then said: "I want to see what's in your pants." Plaintiff had a right to be free from this violation of their rights.

217. Wydysh then told the Plaintiff he has continued to retain the nude video he took of the Plaintiff on June 8, 2015, and "looks at it every day." Plaintiff had a right to be free from this violation of their rights.

218. When Wydysh tried to order the Plaintiff's Yarmulke unlawfully and sacrilegiously placed in a plastic bag, Mr. Karcz asked Lieutenant Willard to bring an end to this religious abuse. Willard allowed the Plaintiff to replace his prayer cap to his head. Mr. Karcz again requested to post bail, but was ignored. Plaintiff had a right to be free from this violation of their rights.

1 219. Despite witnessing the ongoing perverse harassment by Wydysh, Willard and
2 Kuebler then allowed Wydysh to order Mr. Karcz to take his shirt off. Plaintiff had a
3 right to be free from this violation of their rights.
4

5 220. Wydysh made Mr. Karcz strip nude from the waist up. Plaintiff had a right to be free
6 from this violation of their rights.
7

8 221. The Plaintiff, Mr. Karcz, was embarrassed, mortified, alarmed, frightened, and
9 extremely violated. Plaintiff had a right to be free from this violation of their rights.
10

11 222. The acts committed by Wydysh were witnessed by several citizens who had been
12 transported to the police station for court by other officers (Names withheld for
13 witnesses' protection), and also the North Tonawanda Police Officers; Kuebler,
14 Willard, Smith, and Jane Doe. The police refused to intervene as required by law. By
15 the conduct, acts, and omissions complained of in paragraphs 205-222 herein, the
16 Defendants violated clearly established constitutional standards under the United
17 States Constitution of which any reasonable police officer under the circumstances
18 would have known.
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CAUSES OF ACTION

223. As a result of the events alleged herein, the Plaintiffs and their children have been discouraged from participating in public and municipal activities, and their involvement in local activities decreased after the attacks.

224. Due to the humiliation and defamation intentionally caused by the Defendants, the Plaintiffs have been discouraged from participating in home improvement, home maintenance, yard work, gardening, and appearing outside on their own property; singularly, severally, or with their children.

225. Upon information and belief, under Chief of Police William R. Hall, the process for internal review, standardized internal affairs procedures, and or a machinery for civilians to request review of police misconduct has been abandoned, eviscerated, and disregarded. This is evidenced by the lack of response received by the plaintiffs for their valid concerns and grievances they've submitted to Hall and his staff. In so doing, the North Tonawanda Police Department officials violated clearly established constitutional standards under the law of which any reasonable police officer under the circumstances would have known.

226. As a result of the events alleged herein, and due directly to the actions taken by the individual Defendants, the Plaintiffs suffered and continue to suffer emotional trauma, discomfort, humiliation, fear, anxiety and embarrassment, and were otherwise damaged and injured.

1 227. The CITY OF NORTH TONAWANDA directly caused the constitutional violations
2 suffered by Plaintiff, and is liable for the damages suffered by Plaintiff as a result of
3 the conduct of the Defendant officers, officials, and employees. The conduct of the
4 Defendant officers and employees was a direct consequence of policies and practices
5 of Defendant CITY OF NORTH TONAWANDA.
6

7 228. The COUNTY OF NIAGARA directly caused the constitutional violations suffered
8 by Plaintiff, and is liable for the damages suffered by Plaintiff as a result of the
9 conduct of the Defendant deputies, officials, and employees. The conduct of the
10 defendant deputies and employees was a direct consequence of policies and practices
11 of Defendant COUNTY OF NIAGARA.
12

13 229. At all times relevant to this complaint Defendant CITY OF NORTH
14 TONAWANDA, acting through the NTPD, had in effect policies, practices, and
15 customs that condoned and fostered the unconstitutional conduct of the individual
16 Defendants, and were a direct and proximate cause of the damages and injuries
17 complained of herein.
18

19 230. At all times relevant to this complaint Defendant COUNTY OF NIAGARA, acting
20 through the NCSD, had in effect policies, practices, and customs that condoned and
21 fostered the unconstitutional conduct of the individual Defendants, and were a direct
22 and proximate cause of the damages and injuries complained of herein.
23

24 231. At all times relevant to this complaint, Defendant CITY OF NORTH
25 TONAWANDA, acting through its police department, and through the individual
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28

1 Defendants, had policies, practices, customs, and usages of encouraging and/or tacitly
2 sanctioning the violation of and/or retaliation for individuals' exercise of free
3 expression and rights to privacy. Upon information and belief, Defendant CITY OF
4 NORTH TONAWANDA planned and implemented a policy, practice, custom and
5 usage of violating the rights and privacy of the People, that was designed to and did
6 preempt lawful activities by illegally entering the property of and detaining persons
7 engaged in constitutionally protected activity, using excessive force against persons
8 engaged in constitutionally protected activity, retaliating against witnesses to police
9 misconduct, and discouraging police officers from reporting the misconduct of other
10 officers. In connection with the attacks on the Plaintiffs, The CITY OF NORTH
11 TONAWANDA consciously disregarded the illegality and unconstitutionality of said
12 detentions, use of force, and retaliation in order to punish and suppress privacy, due
13 process, peaceful expression, and free association. These policies, practices, customs,
14 and usages were a direct and proximate cause of the unconstitutional conduct alleged
15 herein.
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20 232. The existence of these unconstitutional customs and policies, specifically as it relates
21 to the Plaintiffs, is evidenced by the countless repeated occurrences of similar
22 wrongful conduct against the Plaintiffs as documented by violations of the Plaintiffs
23 rights in the City since May 24, 2013.
24

25 233. The CITY OF NORTH TONAWANDA knew or should have known of the
26 Defendant officers' and employees' propensity to engage in misconduct of the type
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1 alleged herein. Upon information and belief, prior to September 24, 2011, the CITY
2 OF NORTH TONAWANDA was aware of several complaints of police misconduct
3 involving the violations of state and federal laws and retaliatory use of force against
4 the Plaintiffs and/or the People by members of the NTPD. Despite its knowledge of
5 such incidents of prior misconduct, the CITY OF NORTH TONAWANDA failed to
6 take remedial action.
7

8
9 234. The individual members of the Niagara County Drug Task Force (NCDTF) are
10 described by the official Niagara Sheriff's Department website as "a combined forces
11 unit comprised of police personnel from the Lockport and North Tonawanda Police
12 Departments, the United States Border Patrol and the Niagara County Sheriff's Office.
13 The Sheriff of Niagara County supports the Task Force by providing the unit
14 headquarters, support staff and a Chief Investigator to oversee operations," since the
15 NCSD "oversees operations," are Niagara County employees.
16

17
18 235. The COUNTY OF NIAGARA knew or should have known of the Defendant
19 deputies' and employees' propensity to engage in misconduct of the type alleged
20 herein. Upon information and belief, prior to September 24, 2011, the COUNTY OF
21 NIAGARA was aware of several complaints of police misconduct involving the
22 violations of state and federal laws and retaliatory use of force against the People by
23 members of the NCSD. Despite its knowledge of such incidents of prior misconduct,
24 the CITY OF NORTH TONAWANDA failed to take remedial action.
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1 236. It was the policy and/or custom of the CITY OF NORTH TONAWANDA to
2 inadequately and improperly investigate citizen complaints of police misconduct, and
3 acts of misconduct were instead tolerated by the CITY OF NORTH TONAWANDA,
4 including, but not limited to, the incidents listed above.

5
6 237. It was the policy and/or custom of the COUNTY OF NIAGARA to inadequately and
7 improperly investigate citizen complaints of police misconduct, and acts of
8 misconduct were instead tolerated by the COUNTY OF NIAGARA, including, but not
9 limited to, the incidents listed above.

10
11 238. It was the policy and/or custom of the CITY OF NORTH TONAWANDA to
12 inadequately train, supervise and discipline its police officers, including the Defendant
13 officers, thereby failing to adequately discourage further constitutional violations on
14 the part of its police officers. The City did not require appropriate in-service training
15 or re-training of officers who were known to have engaged in police misconduct.

16
17
18 239. It was the policy and/or custom of the COUNTY OF NIAGARA to inadequately
19 train, supervise and discipline its deputies and employees, including the Defendant
20 officers, thereby failing to adequately discourage further constitutional violations on
21 the part of its police officers. The County did not require appropriate in-service
22 training or re-training of officers who were known to have engaged in police
23 misconduct.
24

1 240. As a result of the above described policies and customs, police officers of the CITY
2 OF NORTH TONAWANDA, including the Defendant officers, believed that their
3 actions would not be properly monitored by supervisory officers and that misconduct
4 would not be investigated or sanctioned, but would be tolerated.
5

6 241. As a result of the above described policies and customs, deputies and employees of
7 the COUNTY OF NIAGARA, including the Defendant deputies and employees,
8 believed that their actions would not be properly monitored by supervisory officers
9 and that misconduct would not be investigated or sanctioned, but would be tolerated.
10

11 242. The wrongful policies, practices, customs and/or usages complained of herein,
12 demonstrated a deliberate indifference on the part of policymakers of the CITY OF
13 NORTH TONAWANDA to the constitutional rights of the People within the city, and
14 were the direct and proximate cause of the violations of Plaintiffs' rights alleged
15 herein.
16

17
18 243. The wrongful policies, practices, customs and/or usages complained of herein,
19 demonstrated a deliberate indifference on the part of policymakers of the COUNTY
20 OF NIAGARA to the constitutional rights of the People within the county, and were
21 the direct and proximate cause of the violations of Plaintiffs' rights alleged herein.
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Summary for All Causes of Action

“Decency, security and liberty alike demand that government officials shall be subject to the rules of conduct that are commands to the citizen. In a government of laws, existence of government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, omnipresent teacher. For good or ill, it teaches the whole people by example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for the law. It invites every man to become a law unto himself. It invites anarchy.” U.S. v. Olmstead, 277 U.S. 438 (1928), *Justice Brandeis*.

Ultimately, the summary and substance of the Plaintiffs’ Mr. and Mrs. Karcz complaint and claims are this: We the people of the United States are ruled by law, not by feelings. If this Court allows states and their agencies to rule by feelings and not law, we become a nation without law that makes decisions based on subjectivity and objectivity. (*U.S. Const., Amdt. 14*) The municipality of North Tonawanda has been allowed to bastardize and emasculate the Constitution and the rights of its citizens to be governed by the rule of men rather than the rule of law.

It is very dangerous when governmental officials are allowed to have unfettered access to citizens’ homes in violation of basic privacy. (*U.S. Const., Amdts. 4, 9*) It is also very dangerous to allow the police to violate the confrontation clause in the 6th Amendment where in this case The North Tonawanda Police Department and it’s suborners with the Niagara County District Attorney’s Office and the North Tonawanda City Court hides, conceals and covers up the official accusers, and attempts to punish the innocent to elevate those who made the perjurious reports. (*U.S. Const., Amdts. 6, 8*)

Claim I

(4th and 14th Amendments / 42 U.S.C. § 1983/ Common Law)

245. By committing the acts in Paragraphs 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 30, 33, 42, 43, 46, 47, 50, 51, 52, 55, 57, 65, 67, 68, 69, 72, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87 92, 95, 96, 97, 100, 101, 102, 103, 104, 105, 107, 112, 113, 115, 117, 118, 119, 121, 122, 123, 127, 128, 129, 133, 134, 203, 204, 209, 213, 216, 219, and 220, Defendants caused and/or permitted the violation of Plaintiffs' Fourth and Fourteenth Amendment rights to be free from unreasonable searches and seizures, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. §§ 1983 and 1988.

Claim II

(1st, 4th, 5th, 6th, 9th, and 14th Amendments / 42 U.S.C. § 1983)

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247. By committing the acts in Paragraphs 92, 114, 118, 127, 129, 130, 131, 132, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 170, 171, 186, and 187, Defendants caused and/or permitted the violation of Plaintiffs' First, Fourth, Fifth, Sixth, Ninth, and Fourteenth Amendment rights by conspiracy and in instigating a prosecution, suborning or committing perjury, perjury, ignoring perjury, refusing to allow the Plaintiffs common decencies, abuse from a position of authority, and denying the Plaintiffs' access to potentially exculpatory information in violation of *Brady*, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. §§ 1983 and 1988.

Claim III

(Violation of civil rights: Police Misconduct)

(4th, 5th, 6th, 9th, and 14th Amendments / 42 U.S.C. § 1983/ Common Law)

248. Plaintiffs reallege paragraphs 1 through 222.

249. By committing the acts in Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 30, 33, 34, 37, 38, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 54, 56, 57, 58, 60, 61, 63, 64, 67, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 85, 86, 87, 89, 92, 95, 96, 102, 103, 104, 106, 108, 109, 110, 111, 112, 113, 114, 118, 119, 136, 137, 149, 150, 151, 152, 153, 154, 155, 157, 159, 160, 161, 162, 168, 170, 172, 173, 174, 180, 181, 183, 205, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217 and 219, Defendants caused and/or permitted the violation of Plaintiffs' Fourth and Fourteenth Amendment rights to be free from unethical treatment, law enforcement conspiracy, harassment, and abuse by law enforcement officers and officials,

1 thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. §§ 1983 and 1988.

2
3 **Claim IV**

4 (Violation of civil rights: Deprivation of Rights Under Color of Law)

5 (4th, 5th, 6th, 9th, and 14th Amendments / 42 U.S.C. § 1983)

6
7
8 250. Plaintiffs reallege paragraphs 1 through 222.

9
10 251. By committing the acts in Paragraphs 8, 9, 10, 12, 14, 15, 18, 19, 21, 22, 27,
11 30, 33, 34, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 54, 56, 57, 58, 59, 63, 64, 67, 70, 74, 75, 81,
12 85, 86, 102, 103, 104, 106, 108, 109, 113, 116, 117, 118, 119, 120, 121, 122, 123, 125, 129,
13 131, 135, 137, 139, 143, 145, 146, 147, 149, 150, 151, 154, 155, 157, 159, 161, 162, 163, 164,
14 165, 166, 167, 173, 175, 186, 187, 192, 193, 194, 197, 201, 203, 205, 208, 209, 210, 211, 212,
15 213, 214, 215, 216, 217, 219, and 221, Defendants caused and/or permitted the violation of
16 Plaintiffs' Fourth, Fifth, Sixth, Ninth, and Fourteenth Amendment rights under Color of State
17 Law, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. § 1983.
18

19
20 **Claim V**

21 (Violation of civil rights: Failure to Intervene)

22 (4th and 14th Amendments / 42 U.S.C. § 1983)

23
24
25 252. Plaintiffs reallege paragraphs 1 through 222.

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27 253. By committing the acts in Paragraphs 13, 14, 15, 19, 21, 22, 33, 43, 46, 47, 48,
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49, 50, 51, 52, 53, 54, 72, 74, 79, 85, 87, 89, 103, 104, 106, 108, 113, 149, 155, 160, 161, 209, 210, 211, 212, 213, 214, 215, 216, 217, 219, and 220, Defendants caused and/or permitted the violation of Plaintiffs' Fourth, Fifth, Sixth and Fourteenth Amendment rights by ignoring their duty to intervene upon witnessing the Plaintiffs experiencing constitutional violations by fellow officers, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. § 1983.

Claim VI

(Violation of civil rights: Failure to Protect)

(4th and 14th Amendments / 42 U.S.C. § 1983)

254. Plaintiffs reallege paragraphs 1 through 222.

255. By committing the acts in Paragraphs 47, 48, 49, 50, 51, 52, 54, 59, 72, 74, 79, 80, 81, 89, 209, 210, 211, 212, 213, 214, 215, 216, 217, 219, and 220, Defendants caused and/or permitted the violation of Plaintiffs' Fourth, Fifth, Sixth and Fourteenth Amendment rights by ignoring their duty to protect the Plaintiffs from constitutional violations by fellow officers, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. § 1983.

Claim VII

(Violation of civil rights: Improper Use of Force)

(4th and 14th Amendments / 42 U.S.C. § 1983/ Common Law)

256. Plaintiffs reallege paragraphs 1 through 222.

Claim VIII

(4th and 14th Amendment / 42 U.S.C. § 1983/ Common Law)

259. By committing the acts in Paragraphs 43, 44, 46, 47, 48, 49, 50, 51, 52, 54, and
 defendants caused and/or permitted the violation of Plaintiffs' Fourth, and Fourteenth
 Amendment rights against false imprisonment involving restraint the Plaintiff in a bounded
 without probable cause or consent, thereby entitling Plaintiffs to recover damages
 pursuant to 42 U.S.C. §§ 1983 and 1988.

Claim IX

(42 U.S.C. § 1983/ Common Law)

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261. By committing the acts in Paragraphs 13, 19, 21, 22, 26, 27, 31, 33, 40, 41, 43, 44, 46, 47, 48, 49, 50, 51, 52, 54, 55, 59, 70, 72, 73, 74, 75, 79, 81, 82, 83, 84, 85, 104, 109, 110, 121, 135, 136, 139, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 159, 160, 161, 162, 163, 164, 167, 168, 170, 171, 172, 173, 175, 177, 178, 179, 180, 181, 185, 187, 192, 197, 198, 200, 201, 203, 205, 206, 207, 208, 209, 210, 213, 215, 217, 218, 219, 220, and 221, Defendants caused and/or permitted the violation of Plaintiffs' federally protected rights by intentionally or recklessly acting in a way that caused emotional injury and/or emotional distress, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. §§ 1983 and 1988.

Claim X

(Violation of civil rights: Sexually Motivated Mistreatment of Arrestee)

(4th, 5th, 8th, and 14th Amendments / 42 U.S.C. § 1983)

262. Plaintiffs reallege paragraphs 1 through 222.

263. By committing the acts in Paragraphs 43, 44, 46, 47, 48, 49, 50, 51, 52, 54, 85, 209, 210, 213, 215, 217, 218, 219, 220, and 221, Defendants caused and/or permitted the violation of Plaintiffs' Fourth, Fifth, Eighth, and Fourteenth Amendment rights by subjecting the Plaintiff to unwanted sexual advances, objectification, and molestation while in custody or under seizure, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. § 1983.

Claim XI

(Violation of civil rights: Violation of Due Process)

(14th Amendment / 42 U.S.C. § 1983)

264. Plaintiffs reallege paragraphs 1 through 220.

265. By committing the acts in Paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 30, 33, 34, 37, 38, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 51, 52, 54, 56, 57, 58, 60, 61, 63, 64, 67, 70, 72, 73, 74, 75, 77, 78, 79, 80, 81, 82, 85, 86, 87, 92, 95, 96, 102, 103, 104, 106, 108, 109, 110, 111, 112, 113, 114, 118, 119, 136, 137, 148, 149, 150, 151, 152, 153, 154, 155, 157, 159, 160, 161, 162, 168, 170, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 183, 187, 205, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217 and 219, Defendants caused and/or permitted the violation of Plaintiffs' Fourteenth Amendment right to Due Process, thereby entitling Plaintiffs to recover damages pursuant to 42 U.S.C. § 1983.

Claim XII

(Respondeat Superior Liability of the City of North Tonawanda for State Law Violations)

(Common Law Claim)

266. Plaintiffs reallege paragraphs 1 through 220.

267. The conduct of Defendants WILLIAM R. HALL; THOMAS E. KRANTZ; ROBERT LABUSHESKY; KAREN SMITH; TODD BUSH; ROBERT KOLATA; JAMES MUEHLBAUER; LAWRENCE KUEBLER; SCOTT WILLARD; STEPHEN ENDRES; TERRY HUEY; LEE BOLSOVER; ROBERT BOHNSTADT; SHAWN LARSON; DANIEL MAHONEY; JEFF SHIESLEY; DARYL E. TRUTY; RICHARD WYDYSH; AND NORTH TONAWANDA POLICE OFFICERS JOHN DOE I, II, III, IV, V, and JANE DOE alleged herein occurred while they were on duty, in and during the

1 course and scope of his duties and functions as a North Tonawanda police officer, and
2 while they were acting as an agent, officer, servant and employee of Defendant CITY OF
3 NORTH TONAWANDA. As a result, Defendant CITY OF NORTH TONAWANDA is
4 vicariously liable to Plaintiff pursuant to the state common law doctrine of *respondeat*
5 *superior*.
6

7
8 **Claim XIII**

9 *(Respondeat Superior Liability of the County of Niagara for State Law Violations)*

10 (Common Law Claim)
11

12
13 268. Plaintiffs reallege paragraphs 1 through 220._

14 269. The conduct of Defendants JAMES R. VOUTOUR; SCOTT LOMBARDO;
15 RONALD P. DWORZANSKI; NIAGARA COUNTY DRUG TASK FORCE OFFICERS
16 JOHN DOE I, II, III, AND IV alleged herein occurred while they were on duty, in and during
17 the course and scope of his duties and functions as a North Tonawanda police officer, and
18 while they were acting as an agent, officer, servant and employee of Defendant CITY OF
19 NORTH TONAWANDA. As a result, Defendant CITY OF NORTH TONAWANDA is
20 vicariously liable to Plaintiff pursuant to the state common law doctrine of *respondeat*
21 *superior*.
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REQUEST FOR RELIEF

WHEREFORE, the Plaintiffs request:

270. Compensatory damages in the amount of \$10,000,000.00, as divided between general and special damages, according to proof, to make the Plaintiffs whole;

271. Punitive damages in a dollar value in excess of the jurisdictional limit of the Court, to punish the guilty and prevent them from taking the same or similar course of actions against other innocent parties in the future;

272. The convening and empaneling of a jury of fair-minded peers to consider the merits of the claims herein;

273. Injunctive relief, consisting of:

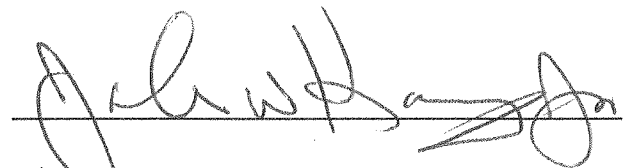
- a. An order prohibiting all slander and libel on the part of the Defendants as directed at the Plaintiffs;
- b. An order prohibiting each and every one of the Defendants from any and all contact, inclusive of official or private capacity, with the Plaintiffs;
- c. A directive enjoining Defendants William R. Lewis and Shawn P. Nickerson from any quasi-official conduct relating to the Plaintiffs' properties;
- d. A federal restraining order barring any of the Defendants from contact with the Plaintiffs or their immediate family members;

275. Declaratory relief establishing the lack of constitutionality of Judge William R. Lewis' actions.

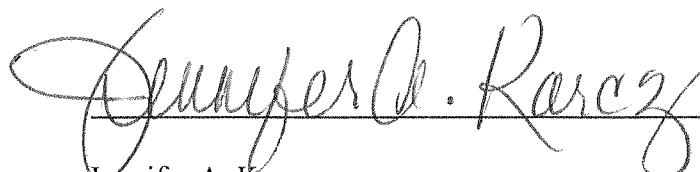
274. Costs and interest and attorney's fees;

275. Such other and further relief as this court may deem just and proper.

Date: July 29, 2016



John W. Karcz, Jr.



Jennifer A. Karcz

IN PRO SE

VERIFICATION of
COMPLAINT

Under penalties of perjury, the undersigned declares that he or she is the (check one box)
Plaintiff/ Defendant named in the foregoing (check one box) complaint/ answer and
knows the contents thereof; that the pleading is true of his or her own knowledge, except as to
those matters stated on information and belief, and that as to such matters he or she believes it to
be true.

DATED this 29th day of July, 20 16.

*I declare under penalty of perjury under the law of the State of
New York that the foregoing is true and correct.*

Jennifer A. Karcz (Signature)
JENNIFER A. KARCA (Print Name)

Sworn before me this
29th day of July 2016.

Jaclyn Palovick

JACLYN PALOVICK
NOTARY PUBLIC
STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
MY COMMISSION EXPIRES 9/15/16


VERIFICATION of
COMPLAINT

Under penalties of perjury, the undersigned declares that he or she is the (check one box)
Plaintiff Defendant named in the foregoing (check one box) complaint answer and
knows the contents thereof; that the pleading is true of his or her own knowledge, except as to
those matters stated on information and belief, and that as to such matters he or she believes it to
be true.

DATED this 29th day of July, 20 16.

*I declare under penalty of perjury under the law of the State of
New York that the foregoing is true and correct.*

 (Signature)
JOHN W. KAREZ, JR. (Print Name)

*Sworn before me this
29th day of July 2016*


JACLYN PALOVICK
NOTARY PUBLIC
STATE OF NEW YORK
QUALIFIED IN NIAGARA COUNTY
MY COMMISSION EXPIRES 9 / 15 / 16

16

CV 628 V

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

John W. Karcz, Jr. and Jennifer A. Karcz

DEFENDANTS

The City of North Tonawanda, et al

(b) County of Residence of First Listed Plaintiff Niagara

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Niagara

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

John W. Karcz, Jr.,

615 Main Street, P.O. Box 1553 M.P.O., Niagara Falls, NY 14301

716-491-1211

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6**IV. NATURE OF SUIT**

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment
VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1331

Brief description of cause:

Ongoing conspiracy by local officials and law enforcement officers to deprive civil and constitutional rights

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ADR list & mediator list